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58	Ernakulam Peoples	do	Bank	293
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65	Vypeen Poultry	do	Club	338
66	Chowwanoor Catholic	do	Society	137
67	Cranganur Pattarya Weaving		do	346
68	Kunnamkulam Home Industrial		do	350
69	Kozhinjampara	do	do	339
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72	Mattancheri Saraswath	do	Bank	217
73	Palluruthy	do	Union	270
74	Kumbalanghy	do	Society	37
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THE COCHIN MUNICIPAL BILL (contd.)

മിസ്റ്റർ വി. കെ. കുട്ടി (*Muslims*).— മിസ് റ്റർ പ്രസിഡൻറ്, സർ, ഭരണപരിഷ്കാരം തരണമെന്നുള്ള മുറവിളിയും പൊതുജനങ്ങളാൽ തിരഞ്ഞെടുക്കപ്പെട്ട ഭരണം നടത്തപ്പെടുന്ന സ്വയംഭരണസ്ഥാപനങ്ങളോട് യാതൊരു മുമതലയുമില്ലാത്ത നിലയിൽ സക്കാരിൽനിന്നും ഒരു ഉദ്യോഗസ്ഥനെ നിയമിക്കണമെന്നുള്ള നിർദ്ദേശവും തമ്മിൽ യാതൊരു പൊരുത്തവുമില്ലെന്നാണ് എനിക്കു തോന്നുന്നത്. (ഹിയർ, ഹിയർ)

ഇന്നലെ ഈ വിഷയം വാദപ്രതിവാദത്തിനെടുത്ത സമയം നിർഭാഗ്യവശാൽ ഞാൻ ഇവിടെ ഉണ്ടായിരുന്നില്ല. ഇന്നിവിടെ വന്നിട്ടുള്ള ഭേദഗതി ഒറ്റൊറ്റക വരെയുള്ള മുനിസിപ്പാലിറ്റികളിൽ സക്കാർ ഉദ്യോഗസ്ഥന്മാരേയോ കമ്മീഷണർമാരേയോ നിയമിക്കരുത് എന്നാണ്. ഇപ്പോഴുള്ള മുനിസിപ്പാലിറ്റികളിൽ മാനേജർമാർ എന്നുള്ള ഒരു ഉദ്യോഗം ഉണ്ട്. ആ ഉദ്യോഗത്തിലിരിക്കുന്നവർ വ്യ മുതൽ ഫാവരെ ശമ്പളം വാങ്ങുന്നവരും, പ്രധാനപ്പെട്ട മുനിസിപ്പാലിറ്റികളിലുള്ള മാനേജർമാർ വലിയ ബിരുദ സമ്പാദിച്ചിട്ടുള്ളതിനുപുറമെ ബോമ്പെയിൽപോയി മുനിസിപ്പാലിറ്റികളുടെ പ്രവർത്തനരീതികൾ പഠിച്ചു പാസായിട്ടുള്ളവരുമാകുന്നു. അങ്ങിനെ പഠിപ്പും പ്രാപ്തിയുമുള്ള മാനേ

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ജർമാർ നമ്മുടെ കൌൺസിലുകളിലുണ്ടെങ്കിൽ കൌൺസിലിനും ചെയർമാനും ഉത്തരവാദപ്പെട്ട നിലയിൽ വേണ്ട അധികാരങ്ങൾ കൊടുത്തു അവരെതന്നെ നിയമിച്ചാൽപോരേ എന്നാണു ഞാൻ ചോദിക്കുന്നതു്. ഇപ്പോൾ ഈ മാനേജർമാരെ സംബന്ധിച്ചിടത്തോളം ഏതുനിലയിൽ നിയന്ത്രിയിരിക്കുന്നുവെന്നു് ഈ ബില്ലിൽനിന്നും മനസ്സിലാകുന്നില്ല. മാനേജർമാക്കു മാസത്തിൽ ൧൦൦ ഉറുപ്പിക കൊടുക്കുന്നതിനുപുറമെ ഇനി വരുവാൻപോകുന്ന കമ്മീഷണർമാക്കു നൂറ്റൊന്നു ഉറുപ്പിക കൂടി മുനിസിപ്പാലിറ്റി ഒരു കൊല്ലത്തിൽ ഉണ്ടാക്കേണ്ടിയിരിക്കുന്നു. ഈ നൂറ്റൊന്നു ഉറുപ്പിക എവിടെനിന്നാണു കൊടുക്കേണ്ടതെന്നുള്ളതു് ഇതേവരെ പ്രത്യക്ഷപ്പെട്ട കഴിഞ്ഞിട്ടില്ല. മുനിസിപ്പാലിറ്റിതന്നെയാണു് ഇതു കൊടുക്കേണ്ടിവരുന്നതെങ്കിൽ ഇപ്പോഴുള്ള നികുതിഭാരം വർദ്ധിക്കുമെന്നുള്ളതു തീർച്ചയാണു്. ൪ ശതമാനം കൊടുത്തുവരുന്ന നികുതി ന്യ-ം വ്യ-ം കയായി വർദ്ധിപ്പിക്കേണ്ടിവരും. വലിയ വലിയ പട്ടണങ്ങളിൽ ഇതിൽക്കൂടുതൽ നികുതിയുണ്ടെന്നു് ഒരുപക്ഷെ ഗവമ്മെൻറു വാദിക്കുമായിരിക്കാം. അങ്ങിനെയുള്ള പട്ടണങ്ങളിൽ നിവസിക്കുന്ന ആളുകൾക്കു ധാരാളം വരുമാനങ്ങളും പ്രവൃത്തികളും ഉണ്ടു്. അതുകൊണ്ടു് ഏട്ടോ പത്തോ ശതമാനംവച്ചു നികുതി കൊടുക്കുന്നതുകൊണ്ടു വിരോധമില്ല. കൊച്ചിയിലെ മുനിസിപ്പാലിറ്റികളാകട്ടെ വളരെ ദരിദ്രമായ നിലയിൽ കഴിഞ്ഞുകൂട്ടുന്നവകളാണു്. നാട്ടുകാരുടെ വരുമാനവും ഏതാണ്ടു് അതേനിലയിൽതന്നെയാണിരിക്കുന്നതു്. ഇങ്ങിനെ നിർഭാഗ്യാവസ്ഥയിലിരിക്കുന്ന മുനിസിപ്പാലിറ്റികളുടെ തലയിൽ ഇത്രവലിയ ഭാരം വലിച്ചുവയ്ക്കുന്നതു വലിയ ആപൽകരമാണെന്നു ഞാൻ ഇവിടെ ഉൽബോധിപ്പിച്ചുകൊള്ളുന്നു.

൧൯൦ മുതൽ ൨൪൦ രൂപാ വരെ മുനിസിപ്പൽ കാൺഫറൻസിൽ പാസാക്കിയതായി പറയുന്ന കമ്മീഷണർമാരുടെ ശമ്പളം ഇവിടെ ഓരോ മുനിസിപ്പാലിറ്റികളിലും പ്രത്യേകം പ്രത്യേകം പാസാക്കുകയോ അവരുടെ അഭിപ്രായം കൊടുക്കുകയോ ചെയ്തിട്ടില്ല. മുനിസിപ്പാലിറ്റിയിൽ പുതിയ ബിൽ വായിച്ചു പാസാക്കുവാൻ ആർഡറായിട്ടുള്ളതായി എനിക്കറിയാം. പക്ഷെ ലാസ്റ്റ് മൂവ് മെൻറിൽ അതു വായിച്ചുപഠിക്കുന്നതിനോ പാസാക്കുന്നതിനോ സൌകര്യം ലഭിച്ചിട്ടില്ലെന്നുള്ളതു തീർച്ചയാണു്. അതുകൊണ്ടു് ഈ വിഷയത്തിൽ ൫൦൦൦ ഉറുപ്പികയുടെ ഭേദഗതിയോടു ഞാൻ യോജിക്കുന്നതോടുകൂടി നിവൃത്തിയുള്ളപക്ഷം വീണ്ടും അന്വേഷണങ്ങൾ നടത്തുവാനായി ഈ ബിൽ സിലക്ടു കമ്മിറ്റിക്കയച്ചു് ഒരഭിപ്രായവുംകൂടി വരുത്തിയാൽ നന്നായിരിക്കുമെന്നു് എനിക്കു് അഭിപ്രായമുണ്ടു്. ഈ സംഗതികൂടി ഞാൻ ഇവിടെ രേഖപ്പെടുത്തിക്കൊള്ളുന്നു.

* **Mr. P. Kumaran Ezhuthassan** *(Wadakkancheri).*—The amendment that is brought forward here is that the stork of a

* Speech not corrected by the Hon'ble Member.

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Commissioner be granted to or be hoisted upon the so-called autonomous institutions viz. the Municipalities only in cases where the Municipality has got an income of over Rs. 75,000 per annum. That is the position, Sir. The Diwan in the Hon'ble President is seen to have made an observation yesterday when the Bill was taken up for consideration that if the Municipality wants any help from the Government, they must be pleased to have this officer given to them and other control by the Government. If, on the other hand, they are not for having this officer, whether they are willing or not, they need not look to the Government for help. That in brief was the position taken up by the Diwan yesterday at the beginning of the consideration of this Bill. Now, Sir, that being the attitude, it is more or less certain that the Government is sure to give us a commissioner whether we like it or not. It is more or less an accomplished fact that you will have a Commissioner. A Commissioner we will have to take and a Commissioner we will have to feed. That is more or less the position. Now our position is this. We tried to have a less irksome man, not thrust upon us but chosen by us and therefore likely to execute our orders for the Municipalities. That was the main point of the amendment of the Hon'ble Member for Trichur North. That unfortunately did not get through. There was then the proposition of a gentleman who had been associated with Municipalities for long and who knows the ways of municipal work to the effect that that section which grants us a commissioner be omitted. That also unfortunately had not been possible to be got through. We are now at the next stage. In accepting this unwanted officer, what is the condition that ought to exist before such a man is hoisted upon us? We say that if that man is to be thrust upon us, if that man is to be fed by us, even his leave and pension is to be provided from municipal funds, the officer sent will certainly be a Government officer. He will be a very wide experienced man rather trained to be the watch dogs for the so-called autonomous institutions. It is stated in sub-clause 6 (B): "If the Commissioner is an officer in the service of the Government, the Municipal shall pay to Government such contribution towards his leave allowances, pension and Provident Fund as may be payable under the C. S. R." You can see how the wind blows. An Officer to be sent to the municipality to be the watch dog for any money that is rightly or wrongly advanced for good causes or for bad causes, for such an officer, Government will see that only an experienced officer is sent to us. This additional expenditure we will have to bear and over and above that

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if it is a Government officer it will be the maximum pay. This also is sure. What I am saying is that the officer that will be sent will be of the highest grade viz., Rs. 300 because it is an experienced officer that is required and an experienced officer will be a man holding a decent pay and he will be sent to us on the maximum. Our experience about the officers on the Treasury Benches shows that the gentleman to be sent will be one at the topmost rung of the scale to fill up any place. Look that side. There may be exceptions. You find many persons drawing Rs. 800 and having many years' service to put in. With that experience I won't be far wrong if I say that the Municipality Commissioner will be a Government servant on the maximum pay, viz., Rs. 300 with the additional burden to the municipality under 6 (B), that is, leave allowance, pension and Provident Fund and any other thing that the Government may hereafter stipulate. That will be the sort of officer that will be sent to us. That is a most costly man will be sent to us. We must be very guarded in accepting him. Accept we must but under what condition shall we accept? Such big men may be sent if our income is more than Rs. 75,000 per annum. That is the only point of our amendment. That is a very reasonable request put forward by nonofficials who have got autonomous institutions and who like to have autonomous institutions in places where they don't exist. I had an idea of having a small municipality in my benighted place Wadakancherry. I was pressing for it in the earlier days. I don't press it now. I want to know whether this clause 13 is to be there and if it is to be there what has to be the income of the municipality. Now the question is this: it is only in cases where the income is more than Rs. 75,000 that this officer be granted or thrust upon us. That is the amendment and therefore I wholeheartedly support the same.

Mr. E. Ikkanda Warriar (*Urakam*).—I too wish to support this motion and in doing so, I wish to point out that this amendment is a very modest one. The very idea of the appointment of the Commissioner or the executive officer was taken from the British Municipality Act. In British India it is obligatory on local bodies to appoint executive officers or Commissioners only in cases where the income of the municipality is over a lakh of rupees and the population over 50,000.

Dr. A. R. Menon (*Pallippuram*).—I wish to draw the attention of the Chair to the fact that the Government Advocate is not listening to the debate and he is carrying on a conversation. It is an insult to this House that the officer who is

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mainly concerned carries on his conversation. I have been watching it for the last five minutes.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I protest against it, Sir. He has no business to insinuate that we are carrying on a conversation. Why should he attribute his own mentality to us?

Dr. A. R. Menon *(Pallippuram).*—Your mentality is very fine.

Mr. E. Ikkanda Warriar *(Urakam).*—For my part, Sir, I am not very anxious that the Government Advocate should listen to me. I know what he is going to do and what he will, whether he hears me or not. I was saying that in British India the condition precedent for the appointment of a Commissioner is that the population of the municipality should be over 50,000. If we go by that test, if we insist upon that test in our municipalities in Cochin State, there will be no municipality here which will come under that category and which will be put to the painful necessity of feeding an executive officer like the Commissioner. In any case it is almost certain, whether we will it or not, we are going to have one. In British India, it is only in municipalities with over 50,000 population and with an income of over a lakh of rupees that a commissioner is appointed.

Mr. K. P. Kannan Nayar *(Secretary to Government).*—Are you sure?

Mr. E. Ikkanda Warriar *(Urakam).*—I am certain that it is obligatory to have a Commissioner only in such cases.

Mr. K. P. Kannan Nayar *(Secretary to Government).*—That is so far as Health Officers are concerned and not so far as Commissioners are concerned.

Mr. E. Ikkanda Warriar *(Urakam).*—No municipality is compelled to have a Commissioner or no municipality can be compelled to have a Commissioner unless the population is 50,000 and the income is over one lakh.

Mr. A. V. Moothedan *(Chalakkudi).*—In British Cochin, there is a Commissioner. The population there is much less.

Mr. T. S. Balarama Ayyar *(Trichur North).*—Government has thrust a Commissioner on the Cochin municipality. But it is obligatory on the part of the municipality to have a Commissioner only where the population is 50,000 or more.

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Government can thrust a Commissioner on any municipality at any time.

Mr. E. Ikkanda Warriar *(Urakam)*.—I was submitting that the amendment relates to a very modest request and I would also request the House to support the amendment.

Mr. T. S. Balarama Ayyar *(Trichur North)*.—Mr. President, Sir, I am going to enunciate a well-recognised principle. Every attempt should be made to eradicate an evil. If it is not found possible to eradicate the evil, every attempt must be made at least to minimise that. If you cannot eradicate or minimise an evil for all time, at least try to eradicate it or minimise it at least for some time. If you cannot eradicate it and minimise it in all places, at least try to eradicate or minimise it in some places and for some time. This evil of an unwelcome intruder of a Commissioner must be eradicated from all places and for all time and since that is found impossible I at least want that this House should make every attempt to eradicate or minimise that evil at least from some places for all time and from all places for some time. If this income of Rs. 50,000 is increased to Rs. 75,000 certainly it will be eradicated from some places for some time and perhaps from some places for all time. That is to say, the income of a municipality may at present be Rs. 50,000. It may gradually increase to Rs. 80,000. When that evil day comes they must be prepared to have a Commissioner to those municipalities. They can get on for some time without that evil. There may be some municipalities whose income may never exceed Rs. 75,000, and they can eradicate this evil for all time to come. I therefore strongly support the amendment to increase the figure from Rs. 50,000 to Rs. 75,000. Government have agreed to the principle, but the fight is only in the figure. So, when Government have accepted the principle of exempting certain municipalities of income up to Rs. 50,000, I appeal to the Government to be graceful to extend it to Rs. 75,000.

Mr. A. Narayana Menon *(Vyttila)*.—I support the amendment proposed by Dr. Menon. In doing so, I am not guided by any principle of eradicating an evil or of minimising an evil. There is none such here.

The amendment to section 13 proposed by the Hon'ble Member for Trichur North and which was rejected by this House when read with his section 13 A clearly shows that there is no attempt made to eradicate any evil or to minimise any

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evil. No doubt his amendment to section 13 provides for the appointment of a chief officer. But when he provides in Section 13 A for perfect liberty to the Government to appoint a commissioner whenever they please, he wants this House to say to the Government "you are at liberty to take another step if and when it pleases you". Is any evil capable of being eradicated or minimised by this? The confession made by the Hon'ble Member for Pallippuram, till late an experienced Chairman of one of the major municipalities of the State is sufficient proof for the contention that unless we provide for executive officers or Commissioners to go through the administrative work of big municipalities they would suffer.

Mr. T. S. Balarama Ayyar *(Trichur North)*.—A word of explanation, Sir. I never said 'a Commissioner' as contemplated in the Bill. I called him an unwelcome intruder.

Mr. A. Narayana Menon *(Vyttila)*.—Section 13 A as attempted to be introduced by the Hon'ble and learned member will show that absolutely no condition precedent is necessary for the imposition of a Commissioner on a municipality. A Chief officer appointed under S. 13 as framed by my friend can be removed, for no reason at all, quite unceremoniously and arbitrarily. This is how S. 13 A begins:—"Notwithstanding anything contained in section 13 the Government may appoint a Commissioner for any municipality after duly notifying the reasons therefor." That is to say, notwithstanding anything that is stated in section 13 which provides for the appointment of chief officers, if the Government think that a Commissioner is necessary for a municipality they can impose a Commissioner on the municipality. No condition precedent is insisted upon to justify the Government to impose a commissioner upon a municipality which has a "chief officer". It was for this that we had much discussion yesterday! Absolutely no attempt at minimising nor eradicating an evil is made here. The words in the two sections are simple. That is by the way. Since one of the most experienced chairmen has in unmistakable terms wanted the presence of executive officers to administer municipalities, I do not think we need further labour upon the point whether commissioners are required or not. If chief officers as contemplated by my Hon'ble friend for Trichur North are to be provided for in the statute, that may give rise to cliques. One member may say to the chairman to help a favourite of his. Then another member may say "here is a candidate of mine, please take him". As a result there will be

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factions in the Council. I was a member of the local municipality and I know how things are getting on there. For the smooth working of municipalities, it is better that no such power is vested in it. I support the amendment on the main ground; i. e. when the income of a municipality cannot afford the appointment of a Commissioner, we should not thrust one on it.

Mr. C. R. Iyyunni *(Trichur South).*—Sir, I may be permitted to make an amendment upon an amendment, i. e., "the Government may, if they think it necessary, appoint, by notification, a commissioner for any municipality whose income is 2 lakhs and whose population is 50,000.".

Deputy President.—I cannot allow that amendment at this stage.

Mr. C. R. Iyyunni *(Trichur South).*—Amendment of an amendment has been allowed in this very Council.

Deputy President.—The amendment is moved and I cannot allow any further amendment.

Mr. C. R. Iyyunni *(Trichur South).*—It is a matter of vital importance, so far as the life of the municipality is concerned.

Deputy President.—I cannot allow that.

* **Mr. C. R. Iyyunni** *(Trichur South).*—In that case, I wish to support this motion, and in doing so I wish to say that the member for Vyttila brought in a suggestion that if an executive officer is to be appointed by the Municipality there will be so much of rush and so on.

Deputy President.—We are not upon that. We are only on the question of Rs. 75,000 and Rs. 50,000.

Mr. C. R. Iyyunni *(Trichur South).*—I am simply answering a suggestion thrown out by the Hon'ble Member for Vyttila. It is not for anything else. With regard to the amendment what I wish to say is the Government or for the matter of that, the Select Committee could have made suggestions making grades say as follows:—

* Speech not corrected by the Hon'ble Member.

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A Municipality having an income of Rs. 50,000—
A Commissioner on such and such a pay.
A Municipality having an income of Rs. 75,000—
A Commissioner on such and such a pay.
A Municipality getting an income of a lakh of rupees—
A Commissioner on such and such a pay.

That could have been made by them. Even that is not done here. If that had been done we could have known that a Municipality getting an income of Rs. 50,000 will have to pay or to meet the expenses of a commissioner drawing a salary of Rs. 100 or Rs. 125. Now it is only the maximum that is shown here. A commissioner on a maximum pay of Rs. 300 should be appointed to any Municipality which the Government thinks fit. That appears to be a very serious matter and for that reason it is absolutely necessary that some specific mention should be made of the income of the municipality to which this Commissioner is to be hoisted upon. The maximum amount of income should certainly be not less than Rs. 75,000 if a Commissioner is to be appointed. I therefore wholeheartedly support the amendment brought forward by Dr. A. R. Menon.

Dr. A. R. Menon (*Pallippuram*).—Sir, if the person who moves an amendment to an amendment wants to reply, has he got the right to have a second voice?

Deputy President.—If the President allows it he can have a right of reply.

***Mr. Thomas Manjuran** (*Government Advocate and Law Officer*).—I have stated the Government position, Sir. Even the Rs. 50,000 was not there. Government out of deference to the views of the members accepted that clause. With regard to the Rs. 75,000 limit Government reluctantly have to oppose the motion.

Hon'ble Members are aware that of the functioning municipalities Ernakulam, Trichur and Mattancheri are far far beyond the Rs. 75,000 clause. So Government's opposition is not upon the exigencies of the situation as it exists to-day. The income of Chittur comes to Rs. 45,000 and that of Irinjalakkuda is very much smaller. So what the Government is concerned with is not with regard to their position or otherwise to appoint executive officers to these three municipalities. Government are aware of the

* Speech not corrected by the Hon'ble Member.

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fact that it may be desirable in the case of municipalities whose income is over Rs. 50,000 to appoint executive officers in proper cases. Hon'ble members should also remember that our provision is somewhat different from the Madras provision. In the Madras provision with regard to certain municipalities an executive officer has to be appointed. With regard to the other municipalities it is 'may'. I think the Hon'ble member for Urakam was wrong, somewhat inaccurate, in the basis. With regard to the municipalities mentioned in Schedule IX executive offciers shall be appointed. With regard to other municipalities the executive officers shall be appointed if their names are notified. In the case of major municipalities which has a population of 50,000 it is obligatory.

Mr. K. P. Kannan Nayar *(Secretary to Government).*—In the case of these municipalities it is obligatory and in the other cases Government have to notify.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—So, irrespective of any other consideration either of population or income Government is given the plenary discretion. We are prepared to allow that discretion, the amendment moved by the Hon'ble member for Chittur. I submit the present is rather an unnecessary limitation to impose that the limitation should advanced further to the extent of Rs. 75,000. We are dealing with future possibilities. Even with a lakh of rupees it is not necessary that an executive officer should be appointed. Government may appoint, that is all. As it is, of the 5 municipalities three of them will be affected whether it is 50,000 or 75,000 rupees. The others won't be affected.

Mr. P. Govinda Menon (*Adur*).—Then why do you oppose?

Mr. K. Achyuta Menon (*Diwan Peishkar*).—Why do you propose?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—We are opposed because we cannot accept this enhanced figure. I will repeat that. Here we are prepared to accept the limitations which exist in Madras because that limitation appears to Government to be reasonable. A municipality which has not an income of Rs. 50,000 may not be able to maintain an executive officer. Therefore I exhort Hon'ble members to restrict the motion as it originally stood which the Government is prepared to accept. With regard to the other, 75,000 limit, we request the members not to press it.

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Dr. A. R. Menon *(Pallippuram).*—Sir, let me make the position very clear. In British Municipalities if a Municipality has an income of more than one lakh of rupees and a population of 50,000 or above 50,000 that Municipality is bound to have a Commissioner to manage its affairs.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I do not find it so.

Dr. A. R. Menon *(Pallippuram).*—They are liable to be mismanaged.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—No. I shall read the clause here, section 12 (c) of the Madras Act: "A Commissioner shall be appointed by the local Government in the case of each Municipality included in Schedule IX and in the case of any other municipality notified by the Government in this behalf". This is all the provision that exists in this and Schedule IX gives a list of Municipalities for which commissioners shall be appointed. Vizagapattam, Bazwada,.....Salem, Tanjore, Trichinopoly, Ootacamund and Tuticorin. With regard to the other Municipalities the executive officers shall be appointed when the Government notify. That is the situation.

* **Dr. A. R. Menon** *(Pallippuram).*—I am very thankful to the Law Member. So far as Ooty is concerned, there is no place anywhere in India where Government has been spending so much money. Government Secretary thinks that Ooty is not a special case. Whatever it is, in all the towns that you have enumerated except Ooty I have no doubt the population is above 50,000 and income more than one lakh of rupees. So the sum and substance of the argument is the same. Only in such cases where the income is one lakh of rupees and the population is almost 50,000 the operation of the appointment of a commissioner comes into force. In other special cases Government may by notification impose the Commissioner or executive authority upon the Municipality. Why is it restricted to one lakh? The object is Government is of opinion and I think the Government must be of opinion that a Municipality having a population of over 50,000 and an income of one lakh of rupees requires and is in a position to maintain a Commissioner. That must be the reason. The others might have been notified for special reasons. The Government Advocate made a lot of this concession given in this Bill by saying that there is no restriction in British India whereas Rs. 50,000 is the minimum and that is acceptable to Government.

* Speech not corrected by the Hon'ble Member.

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Now, Sir, if the Hon'ble members of this House and the general public think that the Cochin municipalities had been misbehaving, squandering away the public funds entrusted to their care and generally speaking that the municipal administration has been a thorough failure, I can understand the point. Is it the fact? There have been certain minor cases of defalcation. Were there not defalcations of a graver nature in Government; more than one and a half lakhs in one instance and many cases where Rs. 10,000, Rs. 8,000 and Rs. 5,000 were defalcated by Government officers? What is the efficiency of your Government men? One is Government and the other is self government. Where was the Comptroller to see that such defalcations do not occur? One would understand if he reads the objects of the Bill that this municipal administration has broken down and the whole administration has been carried on in a reckless manner. Nothing is farther from truth, Sir. If honorary municipal Chairmen can tolerably well till this day deal with the income of nearly two lakhs why not they be allowed to continue like that? To quote one instance, in spite of the exertions of the Government to catch me for defalcation, for misappropriation of municipal funds, out of the seven lakhs they were able to find out only a defalcation to the extent of two rupees and they had to apologise for that. I make that declaration openly in this House.

Deputy President.—Order, order. This point has nothing to do with the amendment in question.

Dr. A. R. Menon *(Pallippuram)*.—I am illustrating, Sir, that Rs. 75,000 is not too much to be entrusted with honorary Chairmen. If we can manage like that by honorary men, why not a 75,000 rupees be accepted? That is the point I want to bring to your notice. What is your objection to accept this? You say that Government 'may' and not 'shall' appoint. Government somehow or other make sometimes a criminal distinction between 'may' and 'shall'. 'May' would sometimes mean 'shall' and 'shall' would sometimes mean only 'may'. I know what you would do. And therefore. .....

Mr. K. P. Kannan Nayar *(Secretary to Government)*.—In law it is so sometimes.

Dr. A. R. Menon *(Pallippuram)*.—I have been associating with lawyers too long and I have understood these technicalities to some extent.

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Now, Sir, the 75,000 rupees limit he says is too exorbitant. Just think of a municipality like Trichur or Ernakulam. What is the total percentage of income and what is the percentage spent for its collection? Compare Ernakulam and Trichur. Ernakulam spends more for collection. So it all depends upon the nature of the income and not the total amount. The difficulty or the ease of collection is the thing that makes all the difference. In the beginning in Trichur it was somewhere about 24 or 25 per cent, and now it works out at 10 or 12 per cent. It may be said that we are getting Rs. 80,000 from the toll in a lump.

The point here for consideration is whether a municipality is capable of appointing an officer and whether it is improper, inequitous and invidious. I want therefore to point out that the figure of Rs. 75,000 after all does not convey much. We do not bring all these small municipalities under the inequitous Bill deliberately framed. I assert the word deliberately with all the vehemence. I say it is inhuman. This is brought I say deliberately and simply for the sake of giving a few jobs to the camp followers of the Government. That is how I view this I am pressing this motion. I do this because at least one Municipality, the Chittur municipality whose income is now Rs. 45,000 and which may rise to Rs. 50,000 very shortly and Irinjalakkuda may escape from the operation of this unjust Bill.

Mr. A. Eachara Menon (*Chittur Rural*).—I accept the amendment brought forward by the Hon'ble member for Pallipuram.

Deputy President.—I may inform the Hon'ble member that in that case this is the only motion before the House and if this is thrown out the other will also be thrown out.

Mr. A. Eachara Menon (*Chittur Rural*).—Even in that case I accept the amendment to my amendment.

Dr. A. R. Menon (*Pallippuram*).—Let it go and let them have their way. Chittur will be getting an income of Rs. 50,000 in another year and they want to bring that also under them and give another man a job.

Amendment as amended was put and carried.

Mr. V. K. Krishnankutty (*Anthikad*).—Mr. President, Sir, it appears that there is a superstition prevalent in the West that No. 13 is a very unlucky one. The Hon'ble member for

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Chittur moved an amendment that section 13 be left out from the Bill. It might be due to this or it might be due to some other thing. I also have to propose an amendment to section 13 clause(4). Section 13 (4) gives the mode in which or the circumstances under which an executive officer namely the Commissioner as contemplated by the section is to be removed. What removal means I cannot say; whether it is by transfer or dismissal or dispensing with the services; we cannot say what it is. According to the section as it at present stands it says 'Government may at any time remove a commissioner from office'. What are the reasons which will prevail with the Government to remove a commissioner have not been expressly stated in section 13. Government may at any time remove a commissioner from office. That is the condition under which Government may remove the Commissioner from office. Secondly power is given to the Council by a vote of two thirds of the total number of members, that is, when that proposition is accepted by a two thirds majority, the Government is compelled to remove the Commissioner. It is 'shall' here.

Now, Sir, my amendment reads thus: 'Delete Section 13 (4) and substitute the following:—The Government may remove the Commissioner from office if he becomes incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient and shall remove him, if such removal is recommended by a resolution of the Council passed at a special meeting called for the purpose and supported by the votes of not less than two thirds of the sanctioned strength of the Council.'

I have added that clause to the existing section and my reason for moving that amendment is this; in certain cases the commissioner may be a person who often moves with the majority of the people, works for the benefit of the people, also upholds the principle of self government. In such cases the Government may try to influence the Commissioner as occasion arises and the Commissioner will be liable to such influence. If such a clause like clause (4) 'may at any time be removed' is retained the liability of the Commissioner to be influenced by Government at their beck and call will be more. The object of moving this amendment is to restrict the power of Government for removing the Commissioner. The Commissioner can be removed by the Government only when he becomes incapable of performing the duties of the municipality or has been guilty of any misconduct or neglect. Sir, this is intended to safeguard against the removal of the Commissioner who is a really popular commissioner. This is not a novel idea too. This is

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included almost verbatim in the City Municipal Act of Bombay. I refer to section 54 (2) of the Bombay City Municipal Act as amended up-to-date. Section 54 deals with the mode in which or the conditions under which the municipal Commissioner may be removed. Section 54 (2) reads thus:—'He may be removed by the Governor at any time if it appears to the Governor in Council that he is incapable of performing his duty or is guilty of misconduct or neglect which renders his removal expedient'. I have simply attempted to incorporate the provision from the City of Bombay Municipal Act. Sir, I think it should be a salutary principle which our Government also will follow. Let us take all salutary principles from all enactments and not incorporate all the useless and ancient and cast away clauses. This is a very safe method by which Government can be given the power in certain cases to remove municipal Commissioners. I hope the Government will be reasonable enought to accept the amendment modelled after the City of Bombay Municipal Act.

* **Dr. A. R. Menon** *(Pallippuram).*—Sir, I move an amendment to that amendment. I move to remove the words 'two thirds majority' and substitute in its place 'bare majority'. I will assign the reason why I do so. This is the unfortunate result of copying out sections from another Act, improving here and there to suit your own convenience. Here 20 per cent of the seats are nominated by Government. In the City of Bombay there is no such thing. Therefore a two thirds majority is given there. By adopting that here we are making our position much worse.

Deputy President.— I rule out the amendment of the Hon'ble Member for Pallipuram since there is no alteration made to the amendment. It is only adding some grounds upon the removal of the Commissioner.

Dr. A. R. Menon *(Pallippuram).*—In the previous amendment 50,000 was changed into 75,000 and that was allowed.

Deputy President.—In the previous case the amendment was to the section. But in this case the Hon'ble Member does not want any amendment so far as the section is concerned. The Member wants only to add some reasons for the removal of the Commissioner. Hence I rule it out.

Dr. A. R. Menon *(Pallippuram).*—I bow to your ruling, Sir.

* Speech not corrected by the Hon'ble Member.

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I think I can speak on the present motion, Sir. I rise to support this amendment. By a peculiar psychology the Government Advocate will remember the necessary conditions that should be put in for the removal of an officer which is copied from the British section and unhappily forgets to impose any restriction upon the Government. It is said Government may remove him at any time. When the Government wants to remove him, he can be removed. Since he is in the Municipality, should they not give us the reasons or the conditions or the grounds under which he is removed? The appointment is made by you, leave is granted by you and therefore he should be dismissed by you. But we pay him. So is it not a fact that the man who pays the pie calls for the tune? We must pay the Government in full. If they give us a contribution we can understand it. If they pay a substantial portion to the Municipality, we have no voice. In this particular case it is nothing but pure autocracy just to exemplify that they are masters of the situation. It is always good to possess the strength of a giant. But you should remember that it is not safe to utilise that power. That you are going to see in the near future. I say that. They wanted to strangle this Council and they wanted to systematically strangle this Council and that with our own money. You want to spin the rope to put it round our necks. You appoint your man and you dismiss him. You dig your grave and ask us to pay the bill. It comes to this. By some fortune or other we get a man who is sensible enough sometimes to act in the interests of the Municipality and not at the bidding of the Government. Such a man cannot retain his place for 24 hours. Hence we want to restrict the power of the Government. Therefore we say that under these conditions alone Government shall intervene. I support this amendment.

The House rose for lunch at 1 p. m. and re-assembled at 2-15 p. m. with the Deputy President in the Chair.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ (*Ezhuvas North*).— സർ, ബഹുമാനപ്പെട്ട അന്തിക്കാട്ടമ്പുറവർകൾ ഈ ഭേദഗതി അവതരിപ്പിച്ച അവസരത്തിൽ പ്രസ്ഥാവിച്ച ഒരു സംഗതിയോട് ഞാൻ. യോജിക്കുന്നില്ല. ഫസ്റ്റ് എന്നു നമ്പർ ശുഭകരമല്ലെന്ന് അദ്ദേഹം പറയുകയുണ്ടായി. ഏതെങ്കിലും ഒരു സംഗതിയിൽ ഒരു കക്ഷിക്ക വിജയമാണെങ്കിൽ മറെറ കക്ഷിക്ക അപജയമായിരിക്കും അനുഭവം. എന്നാൽ ഈ സാമാന്യ നിയമത്തിനു വ്യത്യസ്തമായ ഒരു സംഗതി തുഗ്ശ്രർ വൈല്യതീകരണം മാത്രമാണ് എന്റെ ദൃഷ്ടിയിൽ വരുന്നത്. ഇപ്പോൾ മുനിസി

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പ്പൽ കമ്മീഷണർമാരെ വെയ്ക്കുന്നതുകൊണ്ടു മുനിസിപ്പാലിറ്റികൾ ദോഷകരമാണെങ്കിലും കമ്മീഷണർമാരാകുന്നവർക്ക് അതു ഗുണപ്രദവുമാണല്ലോ.

സർ, ഏതായാലും ഗവൺമെൻറിൽനിന്നു നിയമിക്കപ്പെടുന്ന കമ്മീഷണർമാർ മുനിസിപ്പാലിറ്റികളിൽ വേണമെന്നു വകുപ്പു ശനിയാഴ്ച ഇവിടെ പാസായികഴിഞ്ഞു. മുനിസിപ്പൽ ഭരണത്തെക്കുറിച്ച് അല്പമെങ്കിലും പരിജ്ഞാനമുള്ളവരും പൊതുജനങ്ങളോടുള്ള ഉത്തരവാദിത്വവും കടമയും അറിയുന്നവരും ആയ സകല അംഗങ്ങളും ശക്തിയായി എതിർത്തതിനു ശേഷവും അതു പാസ്സായി. മുനിസിപ്പാലിറ്റിയെ തേജോവധം ചെയ്യുന്നതിനുള്ള കല്പനയിൽ ഗവൺമെൻറിൽനിന്നു ഒപ്പുവെയ്ക്കുവാൻ ചില പൊതുജനപ്രതിനിധികളും അനുമതി നൽകിക്കഴിഞ്ഞു. അനവധി കാലമായി, അനവധി സ്വാതന്ത്ര്യസേവകന്മാരുടെ അക്ഷീണപരിശ്രമത്താൽ അനുക്രമം വളർന്നുവന്നിരുന്ന സ്വയംഭരണവൃക്ഷത്തിൻറെ നാരായവേരിൽ കത്തിവെച്ചു മുറിക്കുകയായി. ഈ ബഹുമാനപ്പെട്ട സഭ ഏതൊരു തത്വത്തിനുവേണ്ടി അവിശ്രമം പരിശ്രമിച്ചുവോ, ഏതൊരു തത്വം സാധിക്കുന്നതിനുവേണ്ടി മെമ്മോറിയലുകൾ കൊടുക്കുകയും പ്രമേയങ്ങളും ഉപക്ഷേപങ്ങളും പാസ്സാക്കുകയും വാക്കൌട്ട് മുതലായ പ്രകടനങ്ങൾ നടത്തുകയും ചെയ്തിരുന്നുവോ, നമ്മുടെ ആദർശവും സ്വപ്നവുമായ ആ രാഷ്ട്രീയസ്വാതന്ത്ര്യത്തിൽ, അതെ ഉത്തരവാദഭരണത്തിൽ ഈ സഭയിലെ ചില അംഗങ്ങൾ വിശ്വസിക്കുന്നില്ല എന്നു രേഖപ്പെടുത്തിക്കഴിഞ്ഞു. ഹാ! ബഹുമാനപ്പെട്ട ഈ കൊച്ചീ നിയമസഭയുടെ മൌഢ്യമേ, നിൻറെ വിജയത്തിൻറെ പടഹധ്വനി ഹതഭാഗ്യയായ കൊച്ചീരാജ്യം മുഴുവനും മിനിഞ്ഞാന്നു ഉച്ചയ്ക്കുശേഷം കേട്ടുകഴിഞ്ഞു. ബഹുമാനപ്പെട്ട കൊച്ചീഗവൺമെൻറിൻറെ അധികാരപ്രമത്തതേ, വിജയശ്രീലാളിതമായ നിൻറെ പതാക ഉയർന്നുനിന്നു തത്തിക്കളിക്കുന്നതും മിനിഞ്ഞാന്നു ഉച്ചയ്ക്കുശേഷം നിസ്സഹായ കൊച്ചിയിലെ ജനാവലി കണ്ടുകഴിഞ്ഞു. കാലവിളംബമെന്യേ ഇനി അനുഭവിക്കയും ചെയ്യും.

൩൦൦ രൂ പ്രതിമാസം ശമ്പളമെന്നു പറയുന്നതു ഇന്നാത്തെ കാലസ്ഥിതിക്കു നിസ്സാരമായ ഒരു സംഖ്യയല്ല. അതു കിട്ടുവാനിടയുള്ള ഭാഗ്യവാന്മാർക്കു, കേസ്സുകളൊന്നും ഇല്ലാതെ കോടതികളിൽ ചുറഞ്ഞു ലാച്ചാറടിച്ചു നടക്കുന്ന പിഞ്ചുവക്കീലന്മാരോ പാറവക്കീലന്മാരോ ആണെങ്കിൽ അവർക്കു പ്രത്യേകിച്ചും . . . . . .

Deputy President.—Hon'ble Member must speak about the motion before the House.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ *(Ezhuvas North)*.— ഞാൻ സെക്കൻറു ചെയ്യുന്നുവെന്നു മാത്രം പറഞ്ഞാൽ പോരാ; അതിനുള്ള ന്യായങ്ങൾകൂടി ജനങ്ങളെ മനസ്സിലാക്കേണ്ട കാര്യമില്ലേ?—

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അത് എത്രത്തോളം കാമ്യമായ ഒരു സംഗതിയാണെന്നു, അതു കൊടുക്കേണ്ടിവരുന്നവർക്ക് അത്രയോ അതിലധികം ഒസ്സൗകര്യവും ഭാരവുമായ ഭാരമാണ്. "ദക്ഷിണേന്ത്യയിലെ സൌന്ദര്യറാണിയായ കൊച്ചിയുടെ തലസ്ഥാനനഗരിയായ ഈ എറണാകുളത്തെ മുനിസിപ്പാലിറ്റിക്കുപോലും അതു ഭാരമായിരിക്കുന്നതാണ്.....

Deputy President.—I cannot allow this to go on.

Mr. K. S. Manickam (*Irinjalakuda*).—I repudiate that statement. This is casting a slur on the legal profession.

Mr. E. Ikkanda Warriar (*Urakam*).—Why? Why?

Deputy President:—I shall have to ask the Hon'ble Member to resume his seat if he is not going to obey the Chair. He should confine himself to the Motion before the House.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ (*Ezhuvas North*).— പ്രധാനമായി ന്യായം പറയണ്ടേ? അതിനനുവദിക്കാതിരുന്നാൽ പിന്നെ എന്തു പറയാനാണ്?.

പിന്നെ ചിറ്റൂർ, തത്തമംഗലം മുനിസിപ്പാലിറ്റിയുടേയും, ഇപ്പോഴുള്ള സ്റ്റാഫിന്റെ ചിലവിന്നു പോലും വകയില്ലാത്ത ഇരിങ്ങാലക്കുടയെപോലെയുള്ള പിഞ്ചുമുനിസിപ്പാലിറ്റികളുടേയും കഥ പറയേണ്ടതുണ്ടോ?

സർ, എങ്കിലും തീരെ നിരാശപ്പെടാറായിട്ടില്ല. ഉർഭരണം നടത്തുന്ന കമ്മീഷണർമാരെ ഗവമ്മെൻറിനെക്കൊണ്ടു തിരിച്ചയപ്പിക്കുവാനുള്ള അധികാരം മുനിസിപ്പാലിറ്റികൾക്കുണ്ടാകണമെന്നാണ് ഈ ഭേദഗതി നിശ്ചയിക്കുന്നത്. മുനിസിപ്പാലിറ്റിയുടെ ഭൂരിപക്ഷം എന്നതിനുപകരം 2/3 കോറമെന്നാക്കിയതിൽ എനിക്കതിയായ പരിതാപമുണ്ടെങ്കിലും ഗത്യന്തരമില്ലെന്നു കാണുന്നതുകൊണ്ട് ആ ഭേദഗതിയെതന്നെ ഞാൻ സവ്വാത്മനാ സ്വാഗതം ചെയ്തുകൊള്ളുന്നു.

രണ്ടാമതായി എന്റെ ആശ പോകുന്നതു മറ്റൊരു മാറ്റത്തിലേയ്ക്കാണ്. അനുദ്യോഗസ്ഥഭൂരിപക്ഷം കമ്മീഷണർമാരെ സർക്കാരിൽനിന്നു നിയമിക്കുന്ന കാര്യത്തിനെതിരാണെന്ന് പ്രത്യക്ഷമായി വെളിപ്പെടുത്തിട്ടുണ്ട്. ഇതു സവ്വപ്രധാനമായ ഒരു കാര്യം അനുദ്യോഗസ്ഥഭൂരിപക്ഷം നോക്കി തീർച്ചപ്പെടുത്തേണ്ടതാണെന്നു ഞാൻ ദിവാൻജി അവർകളേയും ബഹുമാനപ്പെട്ട ഗവമ്മെൻറിനേയും ഉൽബോധിപ്പിച്ചുകൊള്ളുന്നു. ഈ നിയമസഭയുടെ ചരിത്രത്തിൽ അത്തരത്തിലുള്ള കീഴ്നടപടികളുണ്ടായിട്ടുണ്ട്. എറണാകുളം കോളേജ് രാമവമ്മപുരത്തേക്കു മാറ്റുന്ന കാര്യം അനുദ്യോഗസ്ഥഭൂരിപക്ഷം നോക്കിയാണ് ഒരു യൂറോപ്യൻ സിവിലിയൻ ദിവാൻജി തള്ളിക്കളഞ്ഞതു്. സൌജന്യപ്രാഥമിക നിർബന്ധവിദ്യാഭ്യാസബില്ലിന്റെ കാര്യത്തിൽ ഈ ദിവാൻജിയും ആ നയം

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സ്വീകരിച്ചിട്ടുണ്ട്. മറ്റു നിയമസഭകളിൽ ഒരുദ്യോഗസ്ഥനേതാവായിരുന്നു പൊതുജനാഭിപ്രായത്തിന്റെ ശ്രേണിയിൽക്കൂടി ഉദ്യോഗപദവിയിലേയ്ക്കു കയറിയിരിക്കുന്ന നമ്മുടെ ദിവാൻജി സർ, ഷൺമുഖം അവർകൾ ഈ മുനിസിപ്പൽ ബിൽ കായ്ത്തിലും ആ നയം സ്വീകരിക്കേണമെന്നു അപേക്ഷിച്ചുകൊണ്ടു ബഹുമാനപ്പെട്ട അന്തിക്കാട്ടമെമ്പർ അവർകളുടെ ഭേദഗതിയെ ഞാൻ സവ്വാത്മനാ പിൻതാങ്ങിക്കൊള്ളുന്നു.

* **Mr. Thomas Manjuran** *(Government Advocate and Law Officer).*—Sir, I am sorry the Government have to oppose this amendment. After examination the Government find it to be a not at all desirable one. If the reasons given here in the amendment is intended to be a catalogue of the reasons for which the Government may remove an officer, I submit, that catalogue is completely defective. Supposing the executive officer becomes an insolvent. Supposing he is not efficient. What are the Government to do? If this amendment is accepted the Government will have to keep quiet. In a case where an officer is appointed by the Government, that Government would not remove that officer unless and until certain specific eventualities take place.

Mr. T. S. Balarama Ayyar *(Trichur North).*—Why do you object to any restriction being imposed upon you?

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Laying down a restriction of this kind on the power of the party to remove that officer! It would be like laying down a rule in the case of a subordinate departmental Head 'Don't interfere with him unless these conditions are satisfied'. I can understand a right of appeal being given to the officer if he is meddled with or interfered with unnecessarily. The Civil Service Regulation provides for that. To say that the Government's power of removal should be restricted by this catalogue of reasons which is evidently defective is something which I cannot honestly understand.

Mr. A. V. Moothedan (*Chalakkudi*).—The word 'shall' means only 'may'.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—If the word is intended to indicate only 'may' I say the amendment is insipid.

The object of the motion is that Government shall remove only in such and such cases. I am only speaking on

* Speech not corrected by the Hon'ble Member.

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that basis. Government are to be confined to certain cases where alone they will be entitled to remove its officer. I submit that this list is far from exhaustive and this list could not be accepted by any Government and I am not aware of the reasons that actuated the Hon'ble Member to move this amendment.

Dr. A. R. Menon *(Pallippuram).*—Suppose a Commissioner is interested in the welfare of the people. How to prevent the Government from automatically punishing the Commissioner?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—There are the civil service rules.

Dr. A. R. Menon *(Pallippuram).*—Do the Government follow those rules? You always violate them.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—To say that the Government does not follow the civil service rules is a reckless statement which I consider beneath my dignity to consider.

Dr. A. R. Menon *(Pallippuram).*—Sir, if you permit, I am in a position to prove my assertion. I shall give a catalogue of the violation of the civil service rules. There is no use of saying that it is beneath the dignity of the member to make such a statement. It is beneath the dignity of the Government to violate rules.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I again repeat it, Sir, that it is beneath my dignity to consider such a categorical statement.

Sir, there is no meaning or justification for retaining this amendment. I submit the Government are definitely of opinion that it is a meaningless, unwanted and unnecessary amendment which the Government cannot accept.

Mr. E. Ikkanda Warriar *(Urakam).*—Sir, I beg to support this amendment. I think it is for a very remote contingency that this amendment is providing for. Under normal state of affairs according to the scheme of this Act it would be almost impossible to expect to have a commissioner who will disobey the orders or the commands of the Government. He is in fact a creature of the Government, so to say, to preside over a department of the Government in the Municipal Office. By the appointment of a commissioner, what we find is, instead

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of supervising the activities of the Municipal Council from the Huzur Secretariat, a department is created in the Municipal Office itself with all the powers of removing him, suspending him and so forth. It is very difficult to expect such an officer to go against the wishes of the Government. But it is quite possible that an exceptional case where a commissioner makes himself bold to carry out the resolutions or wishes of the Municipality may arise. If in such a case the Government wants to remove him the question is whether the Government can do it without assigning any reason or whether Government can do it only under certain conditions. Sir, it has been found possible for the Bombay Government to impose such a restriction upon the powers of the Government and I may submit that neither the work of the Municipality nor the work of the Government has come to a stand-still by making such a restriction or provision in the City Municipalities Act there. After all what do we say? The section as it stands does not require the Government to give any reason for the removal of an officer although it requires the Municipal Council in case it wants to remove the Commissioner to take the extraordinary course, I say almost impossible course, of getting the consent of 2/3rds majority of the sanctioned strength of the Council. For instance, in a Municipality consisting of 20 members the Government will have the power to nominate 4 members. If that Council wants to remove the commissioner, according to this section, the Councillors must have a majority of more than 2/3 of the sanctioned strength. That comes to about 14. There are 4 members already for the Government and if the Municipal Commissioner or the Government is able to get 3 members more out of the 16 elected members on their side which is not very difficult, the removal of the executive officer becomes almost an impossibility. A recommendation for removal is the only power which the municipality possesses over the executive officer. If the Government or the Commissioner is able to secure the support of three of the elected members then that power also becomes illusory. The Government's position in the Municipality is almost impregnable. So, is it too much to ask that, once in a way they get an executive officer who is inclined to give some consideration to the persons who pay him, I mean the Municipality, the Government should state its reasons for removing him? Is it too much, Sir, I ask, for the municipalities to ask the Government to tell them why the executive officer in whom they had confidence was removed from that office and placed another there whom they did not want and who will be in a position to sit tight over them or to

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play the role of a master? Why should the Municipality be put to that position? If the Government is compelled to give reasons then I am sure the Government willthink twice before removing an officer like that.

Here, Sir, is a power which the Municipalities of this State enjoyed for the last 27 years and I am sure the Government or any other member of the Government will not tell us that the Municipalities had not been working satisfactorily in any of these places, except probably that, according to their opinion, one or two officers or Chairmen did not behave as they liked in one or two cases. I ask what is the reason for the Government for taking away the powers which the representatives of the people had been enjoying for the last 27 years? After taking that power they had been enjoing for the last 27 years and appropriating it for themselves, is this small restriction, I would even call it courtesy, of telling the municipalities the reasons for removing one of their officers after all such a very serious matter as to merit this strong opposition? The Government Advocate says it will affect the prestige of the Government. The section as it stands runs thus: "The Government may, at any time, remove the Commissioner from office and shall do so if such removal is recommended by a resolution of the Council passed at a special meeting called for the purpose and supported by the votes of not less than two thirds of the sanctioned strength of the Council". They can remove the Commissioner at their sweet will and pleasure. They are not bound to give reasons. Then, what does this amendment purport to incorporate in this section? It is this: The Government can remove the officer only under three circumstances and they are (1) if he becomes incapable of performing the duties of his office, or (2) has been guilty of any misconduct or (3) of neglect which renders his removal from office expedient. The Government can remove him under these three conditions. Is it not enough, I ask? If he is not behaving properly or if he is not looking to the interests of the Municipality it would be the primary concern of the members of the municipality to remove him. If the Government wants arbitrarily to remove him then they can do so only under these three conditions. Even the cases given to us by the Law Member can be brought under any of these conditions. If he is guilty of misconduct or if he neglects to do his duties they can remove him. What are the other conditions, I ask the Government Advocate, under which they want to remove him, except the arbitrary will of the Government to remove him to satisfy their whims

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and caprices? Therefore, I say, it is highly necessary that the representatives of the people are shown this courtesy before they are deprived of the vestige of power which they had been enjoying for the last 27 years. I, therefore, submit that the heavens are not going to fall down by the incorporation of this amendment into that section. On the other hand, the Municipal Council will be able to know for what reason their officer has been taken away from them. I, therefore, support this amendment.

മിസ്റ്റർ പി. സി. വക്കി (*Ernakulam North*).— സർ, ഈ അമെൻറുമെൻറുകൊണ്ടു രണ്ടു കക്ഷികൾക്കും വലിയ ബുദ്ധിമുട്ട നേരിടുന്നതല്ലെന്നാണു തോന്നുന്നതു്. ഈ അമെൻറുമെണ്ടിൽ പറയുന്നതു്, 'If he becomes incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient' എന്നാണല്ലൊ. മേല്പറഞ്ഞ വ്യവസ്ഥകളൊക്കെ ഇപ്പോൾപ്പെട്ടെത്തീട്ടല്ലാതെ ഗവൺമെൻറിനു കമ്മീഷണരെ മാറാൻ പാടില്ല; മുനിസിപ്പാലിറ്റിക്കും കമ്മീഷണരെ മാറാൻ പാടില്ല. എനിക്കൊരു സംശയമുള്ളതു് ഇങ്ങിനെയുള്ള വ്യവസ്ഥകൾ ബോമ്പെ സിറ്റി കോർപ്പറേഷൻ നിയമത്തിൽ ചേർത്തിരിക്കെ അവ ഈ ബില്ലിൽ ചേർക്കാൻ പാടില്ലെന്നു വാദിക്കുന്നതെന്തുകൊണ്ടെന്നാണു്.

മിസ്റ്റർ കെ. പി. കണ്ണൻനായർ (*Secretary to Government*).— ഇതും അതും വ്യത്യാസമുണ്ടു്.

മിസ്റ്റർ പി. സി. വക്കി (*Ernakulam North*).— അവിടെ ഇങ്ങിനെയുള്ള ബുദ്ധിമുട്ടുകൾ ഉണ്ടാകാതിരിപ്പാൻ വല്ല പ്രത്യേക കാരണങ്ങളുമുണ്ടെങ്കിൽ അതും കൂടി കേട്ടിട്ടുവേണം അമെൻറുമെണ്ടു സ്വീകരിക്കുകയോ തിരസ്കരിക്കുകയോ ചെയ്യാൻ. അതുകൊണ്ടു് ഈ സംഗതികളെപ്പറ്റി ആരെങ്കിലും വിശദമായി പ്രസ്താവിച്ചുകേട്ടതിനുശേഷമേ ഞാൻ അമെൻറുമെണ്ടിനെ അനുകൂലിക്കുവാനോ പ്രതികൂലിക്കുവാനോ വിചാരിക്കുന്നുള്ളൂ.

Mr. K. P. Kannan Nayar (*Secretary to Government*).— Mr. President, I should like to explain the acts of implication in the Bombay Act. There the power is given to the Governor-in-Council expressly to declare whether a commissioner is incapable to perform the duties of his office or not. Here it is not stated who is to decide whether he has become incapable of performing his function or not. There is that considerable difference.

* **Mr. P. Govinda Menon** (*Adur*).—The Hon'ble Member for Law said that the amendment is unwanted, unnecessary

* Speech not corrected by the Hon'ble Member.

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and insipid. I agree with him that it is unwanted and unnecessary, unwanted by the Government and unnecessary for the Government. But if it is insipid I do not understand why the Hon'ble Member for Law opposed it.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I said it would be insipid if the word 'may' is considered not 'shall' but 'may' only.

Mr. P. Govinda Menon (*Adur*).—It is not as insipid or as unnecessary as it is represented here.

Mr. President, the position is this. Here is an officer of a self-governing institution who has to be appointed by the Government. When once the officer has been appointed, he ceases to be a Government servant and he becomes a servant of the municipality. A servant of the municipality can be dismissed, according to the original section or the amended section, by either of two ways. According to the original section as well as the amended section, if two-thirds of the majority of the strength of the council recommends the removal of the officer he can be removed. Now, Sir, let us take it that there is a municipality consisting of 100 members. According to the scheme of this Bill 20 will be nominated. Therefore, out of 80 elected members sixtysix and two-thirds, i.e., 67 gentlemen have to vote for the removal of an officer of the municipality who has been appointed by the Government. That is to say, 67 out of 80 elected members have to vote for the removal of the officer. That will work at 84 per cent of the elected strength of the Council. That is a most impossible state of affairs. I do not think that under the conditions obtaining in this country at present it will be easy for the removal of an executive officer even if he misbehaves most flagrantly. Therefore, here is the case of a municipality who pays its commissioner from its own funds but finds helpless to remove him. At the same time according to the section as reported by the Select Committee he can be removed by the Government as and when the Government deems fit to remove him. If the Government thinks that it is proper to remove him or if the Government wants to remove him they can simply remove him, and that without assigning any reason. You will please note the extraordinary situation. The Government is removing not a servant of the Government but a servant of the Municipality who is being paid by the Municipality. The amendment proposed by the Hon'ble Member only says that such an extraordinary power can be exercised only for very good and proper reasons. The Hon'ble Member

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for Law may reply that the Government will exercise it only on proper grounds. But that is not an argument. While we are drafting or enacting a Statute we must care to see that all the proper conditions are there. Therefore, I submit that when this extraordinary authority of removing an officer belonging to a foreign institution is being given to the Government we must take care to see that there are proper guarantees, that there are proper safeguards, that there are proper conditions, under which alone the Government will exercise that function.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Who is to decide?

Mr. P. Govinda Menon *(Adur).*—I will come to that. Please wait.

Therefore, this amendment says that under these conditions only shall the Government be given a power to remove an officer. The apprehension in the minds of the Hon'ble non-official Members is this. An executive officer is being appointed by the Government. After he is appointed we do not know what all things are going to happen. It may be that one executive officer acts according to the wishes of the municipality and sometimes against the wishes of the Government. Under such a situation it is to the interest of the people, it is to the interest of the municipality, to see that without proper grounds the Government do not intervene and remove the executive officer. Therefore, this amendment suggests that upon these grounds only, only if these conditions are satisfied, should the Government be empowered to remove the executive officer.

Sir, the Hon'ble Leader of the House intervened and pointed out the difference between the Bombay enactment and the proposed amendment and said that he will be willing to accept the amendment if the words 'if in the opinion of the Government' are introduced. Sir, the cat is out of the bag. That will be making it a useless provision.

Deputy President.—I also wanted to ask the Hon'ble Member who is to decide whether these conditions are fulfilled or not.

Mr. P. Govinda Menon *(Adur).*—If the amendment as proposed by the Hon'ble Member is accepted and if the Government violates any of the provisions of this amendment, according to me, the action can be questioned in a court of law. But that is exactly what the Government does not want.

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My submission is this: If Hon'ble Members of this House say that the Government can be given the power to remove the executive officer of a Municipality— he is not a government servant—only under given conditions, is it too much? Is it not a modest demand that you should be able to remove the servants of other institutions only under given conditions? Is it not too much, even if that power is given under certain conditions? We only want to see, sir, that these things are done in a regular manner, in a reasonable and sensible manner. It should not be done in a capricious manner. Therefore, when this extraordinary power is being given to the Government to remove or to dismiss the servant belonging to another body it is in the interests of the public to demand that there should be proper guarantees and safeguards. If, even after the amendment is passed, the Government takes it into its head to act capriciously that action of the Government can be decided in a court of law. We want nothing more; but nothing less.

* മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി (*Trichur South*).— സർ, ഈ ഭേദഗതി വളരെ അത്യാവശ്യമാണെന്നു ഈ ഭാഗത്തുള്ള മെമ്പറന്മാർക്കു തോന്നുന്നുണ്ടെങ്കിൽ അതിൽ അത്ഭുതപ്പെടുവാനില്ല. ഈ ഭേദഗതി പാസാകുന്നപക്ഷം ഗവർമ്മെൻറിനു വരുന്ന ദോഷങ്ങളെന്താണെന്നാണു നമ്മൾക്കാലോചിക്കാനുള്ളതു്. ഗവർമ്മെൻറിൽനിന്നു കമ്മീഷണരെ ജോലിയിൽനിന്നു മാറുന്നതായാൽ ഗവർമ്മെൻറു ചെയ്യേണ്ടുന്ന കാര്യങ്ങൾ, ഒന്നാമതു സംഗതികളെക്കുറിച്ചു ഒരു തീരുമാനം ചെയ്യേണ്ടതുണ്ടു്. അതായതു് ഈ ഉദ്യോഗസ്ഥൻ തൻെറ ജോലി ചെയ്യുവാൻ പ്രാപ്തനാണോ, അല്ലെങ്കിൽ അല്ല, എന്ന ഒരു തീരുമാനം വേണം. എന്നാൽ മാത്രമെ ഉദ്യോഗസ്ഥനെ ആ ജോലിയിൽനിന്നു മാറുവാൻ പാടുള്ളൂ. രണ്ടാമതു്, 'has been guilty of any mis conduct' എന്നുണ്ടു്. ഇതിലും ഒരു തീരുമാനം ചെയ്യേണ്ടതുണ്ടു്. ഇതു രണ്ടിലും ഒരു തീരുമാനം വരുത്താതെ ഗവർമ്മെൻറു മുനിസിപ്പാലിറ്റി കാര്യങ്ങൾ അന്വേഷിക്കാൻ നിയമിക്കുന്ന ഒരു കമ്മീഷണരെ നീക്കാൻ പാടില്ലെന്നാണു ഈ അമെൻറുമെൻറിൽ പറയുന്നതു്. ഇങ്ങിനെ ഒരു തീരുമാനം ചെയ്യാതെ ഗവർമ്മെൻറിൻെറ ഇഷ്ടാനുസരണം ഈ കമ്മീഷണരെ മാറ്റാൻ പാടില്ലെന്നു അന്യോദ്യോഗസ്ഥപക്ഷത്തുനിന്നു പറയുമ്പോൾ അതിൽ ഗവർമ്മെൻറിനു ഇത്ര ഭയപ്പെടാനെന്താണുള്ളതെന്നു മനസ്സിലാകുന്നില്ല. ഗവർമ്മെൻറിൽനിന്നു നിയമിക്കുന്ന ഒരു കമ്മീഷണർ, ഫാക്ക ൻൻ ശ. മ. ഗവർമ്മെൻറുപാർട്ടിയിലേ നിൽക്കുകയുള്ളൂ, അങ്ങിനെയല്ലാതെ ഗവർമ്മെൻറിൽനിന്നു നിയമിക്കുന്ന കമ്മീഷണർ മുൻസിപ്പാലിറ്റിക്കു അനുകൂലമായി എന്തെങ്കിലും ചെയ്യുമെന്നു തോന്നു

* Speech not corrected by the Hon'ble Member.

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ന്നില്ല. ഇതിനെക്കുറിച്ചു ഒരു തീരുമാനം ചെയ്യണമെന്നാണു ഞാൻ പറയുന്നതു്. ഇതു ന്യായമാണെന്നു ബുദ്ധിയുള്ള ആരും സമ്മതിക്കുന്നതാണു്. ഗവർമ്മെൻറിൽനിന്നു പണം കൊടുത്തല്ല ഈ ഉദ്യോഗസ്ഥനെ നിയമിക്കുന്നതു്. മുനിസിപ്പാലിറ്റിയുടെ കാര്യങ്ങൾ ചെയ്യാനായി മുനിസിപ്പാലിറ്റിയിൽനിന്നു പണം കൊടുത്തു നിയമിക്കുന്നതാണു് കമ്മീഷണർ. ആ കമ്മീഷണർ മുനിസിപ്പാലിറ്റിയുടെ ഇഷ്ടാനുസരണം എന്തെങ്കിലും ചെയ്യുകയും ഗവമ്മെൻറിനു എതിരായി പറയുകയും ചെയ്താൽ ആ ആളെ ഗവമ്മെൻറിൽനിന്നു നീക്കുന്നപക്ഷം അതു ചില വ്യവസ്ഥകളിന്മേൽ വേണമെന്നു പറയുന്നതു ന്യായമാണു്. അല്ലാതെ ഗവമ്മെൻറിൻെറ ഇഷ്ടം മാത്രം നോക്കി ആ ആളെ മാറുന്നതു ശരിയായിരിക്കുകയില്ല. ഇതൊന്നും കൂടാതെതന്നെ, സിവിൽ സപ്ലീസു റഗുലേഷനനുസരിച്ചു ഇന്ന ഇന്ന കാരണങ്ങൾ കൊണ്ടു ഒരു ഉദ്യോഗസ്ഥനെ നീക്കം ചെയ്യാൻ പാടുള്ളൂവെന്നു വ്യവസ്ഥകൾ ഉണ്ടെന്നായിരിക്കാം ലാമെമ്പർ പറയുന്നതു്. അതു പറഞ്ഞാൽതന്നെ ഈ വകുപ്പിൽ അതേപ്പറ്റി യാതൊരു വ്യവസ്ഥകളും പ്രത്യേകം പറയാതിരിക്കുന്നിടത്തോളവും ഗവമ്മെൻറു അങ്ങിനെ ചെയ്യാതിരിക്കുന്നിടത്തോളവും കാലം അതു സമ്മതിക്കുവാൻ നിവൃത്തിയില്ല. ഇങ്ങിനെയുള്ള വ്യവസ്ഥകളൊന്നും സ്വീകരിക്കുന്നില്ലെങ്കിൽ കൊച്ചീരാജ്യത്തിലെ നീതിന്യായകോടതി വിധിക്കുന്ന തിരുമാനമനുസരിച്ചു ഒരു തീരുമാനമെങ്കിലും ചെയ്യണമെന്നു പറയുന്നതിൽ ഗവമ്മെൻറിനു പേടിക്കുവാനെന്താണുള്ളതു്? അതുകൊണ്ടു് C. S. R. ൽ ചില വ്യവസ്ഥകളുണ്ടെന്നു പറയുന്നതുകൊണ്ടു വലിയ കാര്യമുണ്ടെന്നു തോന്നുന്നില്ല. പിന്നെ Misconduct എന്നും neglect എന്നും മറ്റുമുള്ള എന്തെങ്കിലും കാരണങ്ങൾ പറഞ്ഞു ഒരു ഉദ്യോഗസ്ഥനെ മാറ്റാൻ സാധിക്കും. യാതൊരു കാരണവും പറയാതേയും ഒരാളെ ഇന്നുമുതൽ ജോലിയിൽ നിന്നു മാറ്റിയിരിക്കുന്നുവെന്നും വേണമെങ്കിൽ പറയാം. ഇതു് അനുദ്യോഗസ്ഥപക്ഷത്തിൽനിന്നു എടുത്തേക്കാം. പിന്നൊന്നു്, ഗവമ്മെൻറിൽനിന്നു നിയമിക്കുന്ന കമ്മീഷണർക്കു മൂന്നുകൊല്ലത്തെ കാലാവധിയെയുള്ളൂവെന്നു പറയുന്നു. മൂന്നുകൊല്ലം കഴിഞ്ഞാൽ കാലാവധി കഴിയും. അതിനുശേഷം ഗവമ്മെൻറിനു ഇഷ്ടമുണ്ടെങ്കിൽ അയാളെ വീണ്ടും നിയമിച്ചാൽമതി. ഗവമ്മെൻറിൻെറ ഇഷ്ടാനുസരണം പ്രവൃത്തിച്ചു അതുണ്ടെങ്കിലെ അയാൾക്കു വീണ്ടും അവധി നീട്ടിക്കൊടുക്കുകയുള്ളൂ. അതിനാൽ ഗവമ്മെൻറു നിയമിക്കുന്ന കമ്മീഷണർ ഗവമ്മെൻറിനനുകൂലമായ പ്രവൃത്തികളേ ചെയ്യുകയുള്ളൂവെന്നു തീർച്ചയാണു്. അതുകൊണ്ടു ഞാൻ പറയുന്നതു തീർച്ചയായും ഈ ഭേദഗതിയെ എല്ലാപേരും അനുകൂലിക്കണമെന്നാണു്.

Mr. A. Narayana Menon *(Vyttila)*.—I consider this amendment to be not at all a useful one. (Hear, hear). I would even call it a mischievous amendment. I shall presently show it. The interpretation that the Hon'ble Member for Adoor

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wants to put upon this amendment is not in the amendment. It does not say who is the authority to decide whether an officer is incapable of performing his duties or whether he is guilty of misconduct. There is absolutely no guidance at all in the amendments. The appointing authority is the Government. What follows is that it is the Government that is to decide whether the officer is incapable of performing his duties or whether he is guilty of misconduct, etc.

Dr. A. R. Menon *(Pallippuram)*.—An appeal lies.

Mr. A. Narayana Menon *(Vyttila)*.—You have not provided for it. When we pass a law we must see that no loopholes are left unfilled.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri)*.—Why not you come to our help?

Mr. A. Narayana Menon *(Vyttila)*.—That is not my function. The Hon'ble Member who tabled this amendment should have seen that all the loopholes are filled. What follows from this amendment is that the Government is the authority to decide whether an officer is guilty of misconduct or whether he is incapable of discharging his duties. Then the question is whether you should compel the Government to state the reasons for the removal of the officer and thereby pass a black mark on the officer. Why should we ask them to give reason that may blast an officer's future career? Even if there is something against an officer I would have removed him without stating any reason rather than compel the Government to state reasons and thereby blast his career for all time to come.

Dr. A. R. Menon (*Pallippuram*).—How fair you are!

Mr. A. Narayana Menon *(Vyttila)*.—Thank you. Another objection is this: Government officers can be appointed as commissioners. Suppose the Government find that a commissioner for the time being is entitled to a promotion. Is he not to get the promotion?

Mr. C. R. Iyyunni *(Trichur South)*.—That is not a removal.

Mr. A. Narayana Menon (*Vyttila*).—So far as a Municipality is concerned, a promotion of the officer to another place is a removal of that officer from the commissioner's place.

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Here the amendment says he can be removed only if he is guilty of misconduct or if he is unfit. The amendment proposed will not exhaust the list of reasons for removing an officer. By accepting this amendment we will be ever creating obstacles to an officer getting a promotion which he may strictly merit. The amendment does not contemplate such contingencies. Again, this amendment does not lead us anywhere. If it is amplified by the addition of the words, 'if in the opinion of the Government', we get a workable proposition. Absolutely nothing is stated here as to who should judge whether an officer is competent or not. Who is the authority to decide it?

Dr. A. R. Menon (*Pallippuram*).—You. (Laughter).

Mr. A. Narayana Menon (*Vyttila*).—If I am to decide you are to state it clearly in the amendment. (Laughter). Sir, when we promulgate a law we must see that it is capable of being put into practice. When we legislate we are not merely stating maxims. There should be provision for making the law workable. For these reasons I say that this amendment is both useless and mischievous.

Mr. P. Govinda Menon (*Adur*).—Insipid?

Mr. A. Narayana Menon (*Vyttila*).—Insipid and innocuous also.

***Mr. P. Kumaran Ezhuthassan** (*Wadakkancheri*).—I don't know why one non-official member opposed this amendment which after all brings in only a few circumstances under which the Commissioner who is sent to us, though unwelcome, can be removed. Instead of saying, as is stated here, " the Government may, at any time, remove the Commissioner from office and shall do so if such removal is recommended by a resolution of the Council passed at a special meeting colled for the purpose and supported by the votes of not less than two-thirds of the sanctioned strength of the Council " it is attempted through this amendment to introduce the words " if an officer is incapable of performing the duties of his office, or is guilty of misconduct or negligence". These are the specific conditions mentioned under which the Commissioner may be removed by the Government. Then there is the further condition that he shall be removed under the circumstances set out in the latter part of sub-section (4). As

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far as that portion is concerned there is no change. I would find fault with the Hon'ble Member who has brought forward this amendment. I will agree with the Hon'ble Member for Vyttila that this Hon'ble Member for Anthikad has not been careful enough to fill all the loopholes in the existing section because as far as the last portion is concerned it is stated " and shall do so if such removal is recommended by a resolution of the Council passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the sanctioned strength of the Council". It ought to have been 'not less than two-thirds of the elected members of the Council'. One-fifth of the strength of the Council is made up by nomination. Some of them are officials and the other nominated members also will take the side of the officials. There is no use of shutting our eyes to facts. In the case of a removal to be effected at the instance of the Council what the clause as also the amendment says is that it shall be done only if it is recommended, at a special meeting, by two-thirds of the total strength of the Council. It will be very difficult to get two-thirds of the total strength because one fifth there will always be working in one line and one line alone. There is that defect in this amendment. The Hon'ble Member for Vyttila is perfectly right in saying that the Hon'ble Member for Anthikkad has not been able to do away with all the loopholes in the section.

But as far as the point of the amendment is concerned I seriously ask the Government and anybody who opposes the amendment, what exactly is there that they have to be afraid of. Instead of blankly saying that the Commissioner may be removed—for what reason God alone knows—it is stated that he may be removed if he is incapable of performing his duties and if he has been guilty of any misconduct. I cannot conceive of other cases where a removal will be justified, even by a Government which does not want to respect the feelings of autonomous bodies, like the Municipalities. Why not the Government or the single non-official member who opposed it accept it? I was told—I was not here—no other non-official member has objected to the amendment. I take that it is the Hon'ble Member for Vyttila who objected to it. Why cannot that Hon'ble Member come to the rescue of these autonomous bodies for which he has great respect. He was there for some time. He was watching the movements of these autonomous bodies from outside. Sir, I would make an appeal. At the time of voting, if it ever comes to that—I

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know even the Government may accept it—please come to the help of these autonomous bodies. That is the appeal I make to the Hon'ble Member for Vyttila. With my knowledge of that gentleman I am sure that my appeal will not fail.

Therefore, I submit, Sir, that the amendment brought forward here is something which the Government ought to gladly accept. Is it not better that the position of the Government is also made clear when they do such an act? Removal of an officer certainly is not a pleasant function. It is not pleasant for the man removed. It is not pleasant for the institution or the body that removes him. If it is the Government that removes it is desirable that the position of the Government under which this removal is effected is made clear and here comes our friend from Anthikkad and says 'these will be the conditions under which you may remove him'. When such a helpful suggestion is thrown out by an active member of this House why not the Government accept it? I understand that he is also a Municipal Councillor. Sir, it is the man who wears the shoe that knows where it pinches. It is so said and I think it is rightly said. However unwelcome the Commissioner may be, there may be instances where a Commissioner may take it into his head to serve his master. It is the Municipality that pays him. It is the municipal interest that he is to watch although he is sent there as the watch-dog of the Government. Because of his feeling to be grateful for the salt he eats, if he respects the body who pays him, you must not have the power to say "No. No. You are not the sort of man that we want. We have got better type of men, more suitable type of men. You seem to be misbehaving, you seem to be not looking to our interest" and then recall him. But as long as this Council exists there will be ever so many questions about that. Question No. 1 will be "why was Commissioner X removed?". It cannot be disallowed although it may be unpleasant to answer that. It cannot be disallowed under any one of the sections of our Cochin Legislative Council Rules. That being so you will be forced to answer. Then there will be a lot of supplementary questions and probably, the Chair will have to intervene and say that the good Government officers are not to be subjected to the fire of a cross-examination. That will be the position in which you will find yourself. Then why not accept our suggestion? Can you expect a more helpful suggestion to be thrown out by non-official members? Is not this a very constructive, helpful suggestion

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thrown out to you and why don't you accept it? I make these appeals to some gentlemen of the Treasury Bench. The initiative must start from some source and I appeal to that source and I know that source has some feeling to the non-officials. They know how the non-official minds work because of reasons known to them as also to us. It is to them that I appeal. Just as I said that my appeal to the Hon'ble Member for Vyttila will not fail I have a feeling that my appeal to the members of the Treasury Benches will not fail to produce its effect. I hope my appeal will not fail. I hope the amendment will be accepted. With that hope I support the amendment.

* മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ *(Nellayi)*.— സർ, ഈ അമെൻറുമെൻറു കൊണ്ടെന്താണ് ആവശ്യപ്പെട്ടിട്ടുള്ളത്, വിശേഷിച്ചൊന്നുമില്ല. മുനിസിപ്പാലിറ്റിയിലേയ്ക്കു ഒരു കമ്മീഷണറെ വെയ്ക്കണമെന്നു ഗവമ്മെൻറു തീർച്ചപ്പെടുത്തി; അങ്ങിനെ വെയ്ക്കുന്ന കമ്മീഷണറെഗവമ്മെൻറിൻെറ സ്വയാധികാരം മാത്രം പ്രയോഗിച്ചു പിരിച്ചുവിടാൻപാടില്ല; എന്നാണ് ഈ അമെൻറുമെൻറിൽ പറയുന്നതു്. സ്വേച്ഛാധികാരമെന്നു പറഞ്ഞതിനു ഞാനൊരു ഉദാഹരണം പറയാം. ഒരു ഡിപ്പാർട്ടുമെൻറു ഹെഡ് സ് ഒരിക്കൽ അദ്ദേഹത്തിൻെറ കീഴിലുള്ള ഉദ്യോഗസ്ഥനായ ഒരാളെ ജോലിയിൽനിന്നു ഡിസ്മിസ് ചെയ്യാൻ എഴുതി അയച്ചു. പിരിച്ചുവിടേണ്ട ആളിൻെറ അടുക്കൽനിന്നു എക്സ്പ്ലനേഷൻ ചോദിക്കാതെ അങ്ങിനെ ചെയ്യാൻ പാടില്ലെന്നു അയാൾ ഡിപ്പാർട്ടുമെൻറു മേലദ്ധ്യക്ഷനു് എഴുതി. ഡിപ്പാർട്ടുമെൻറദ്ധ്യക്ഷൻ അതിനു മറുപടി കൊടുത്തു. അങ്ങിനെ വേണമെങ്കിൽ അയാളോടു് എഴുതിച്ചോദിച്ചിട്ടു ഡിസ്മിസ് ചെയ്യുകയെന്നു്. അതുപ്രകാരം എക്സ്പ്ലനേഷൻ ചോദിച്ചു അയാളെ ഡിസ്മിസ് ചെയ്യുകയും ചെയ്തു. ഈ ഉദാഹരണം കൊണ്ടു് ഒരാളെ പിരിച്ചു വിടണമെന്നു തോന്നിയാൽ ഗവമ്മെൻറിനു യാതൊരു വിഷമവുമുണ്ടാകുകയില്ലെന്നു അറിയാൻ കഴിയും. ഇത്തരത്തിൽ ഗവമ്മെൻറിൻെറ സ്വേച്ഛാധികാരം പ്രയോഗിച്ചു പിരിച്ചുവിടുമെന്നു പേടി തോന്നാതിരിക്കത്തക്ക നിയമങ്ങളോടുകൂടി വേണം ഈ കമ്മീഷണറെ നിയമിക്കാൻ എന്നാണ് ഞങ്ങളുടെവാദം. ഇപ്പോഴത്തെ നിയമപ്രകാരം കൌൺസിലിനു് അയാളെ പിരിച്ചുവിടണമെങ്കിൽ വർ ൦/൦ അംഗങ്ങളുടെ അഭിപ്രായപ്രകാരമേ പാടുള്ളുവെന്നാണ്. അതു് അസാദ്ധ്യമായ ഒരു കാര്യമാണ്. ഈ അമെൻറുമെൻറു സ്വീകരിച്ചാൽ നാട്ടുകാരുടെ ഹിതമനുഷ്ഠിക്കുന്ന ഒരു കമ്മീഷണറെ വല്ലപ്പോഴും ഒരു കാലത്തെങ്കിലും കിട്ടിയേക്കാമെന്നു വിചാരിക്കാൻ വഴിയുണ്ടു്. ഇത്രമാത്രമേ എനിക്കു പറയുവാനുള്ളൂ.

* മിസ്റ്റർ ടി. കെ. നായർ *(Pazhayannur)*.— സർ, പ്രാദേശിക സ്വയംഭരണ സ്ഥാപനങ്ങളായ പഞ്ചായത്തുകളുടെ കൊല നമ്മുടെ

* Speech not corrected by the Hon'ble Member.

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കൊച്ചി ഗവർമ്മെൻറു ചെയ്യുകഴിഞ്ഞു. ഇനി ഇവിടത്തെ ചില പട്ടണങ്ങളിലേയ്ക്കു കടന്നാൽ മുനിസിപ്പാലിറ്റികളെന്നപേരിൽ കുറെ സ്വയംഭരണസ്ഥാപനങ്ങളും യാതൊരു തകരാറും ക്രമാതെ നടക്കുന്നുണ്ടെന്നു മനസ്സിലാക്കാം. അതിനെക്രമീ കൊല്ലേണ്ടതെങ്ങിനെയെന്ന വഴി ആലോചിച്ചതിൻെറ ഫലമായിട്ടാണു ഈ കാണുന്ന കടലാസുകെട്ടുമുഴുവൻ ഉണ്ടാക്കിയതു്. എൻെറ മാന്യസ്നേഹിതന്മാരേ! അനുദ്യോഗസ്ഥ സാമാജികന്മാരേ! ഗവർമ്മെൻറു ഭാഗത്തുനിന്നു് അവരെ പ്രതിനിധീകരിക്കുന്ന അംഗങ്ങളോടു യാതൊന്നും പറയുവാനില്ല, എൻെറ എളിയ ബുദ്ധിയിൽ തോന്നുന്ന ഒരു സംഗതിമാത്രം നിങ്ങളോടു പറയാം. ഉത്തരവാദിതപ്രഭരണം വേണമെന്നു നാം പറയുന്നതിനോടു കൊച്ചീഗവർമ്മെൻറിനുള്ള മനഃസ്ഥിതിയെന്താണെന്നു് ഈ ബിൽകൊണ്ടു നമുക്കു കാണ്മാൻ കഴിയും. ഇപ്പോൾ നമുക്കെന്തൊക്കെ അധികാരമുണ്ടോ, —എന്തെങ്കിലും ഉണ്ടെങ്കിൽ— അതൊക്കെ എടുക്കുന്നതിനു് എന്തെല്ലാം ചട്ടങ്ങൾ വേണമോ അതൊക്കെ ഉണ്ടാക്കുന്ന ഒരു മനഃസ്ഥിതിയാണു ഗവമ്മെൻറു് ഇപ്പോൾ കാണിക്കുന്നതു്. എൻെറ സ്നേഹിതന്മാരോടു ലജ്ജാപൂർവ്വം ഞാൻ പറയുന്നു, ദിവാൻ സർ, ഷൺമുഖം ചെട്ടി നമ്മുടെ രാജ്യത്തിൽ വന്നപ്പോൾ നമ്മൾ ഏതെങ്കിലും തരത്തിൽ കുറെ നയത്തോടുകൂടി ഇരുന്നാൽ നമുക്കു മുന്നോട്ടുപോകാനുള്ള മാർഗ്ഗങ്ങളുണ്ടാകുമെന്നു വിശ്വസിച്ചിരുന്നവരിൽ ഒരാളാണു് ഞാനുമെന്ന സംഗതി ഞാൻ തുറന്നു പ്രസ്താവിക്കുന്നു. എന്തെന്നാൽ ഒരാൾക്കു് ഒരബദ്ധം പറ്റിയാൽ അതു തുറന്നു സമ്മതിക്കാനുള്ള മനഃസ്ഥിതിവേണം.

Deputy President.—The Hon'ble Member should confine himself to the subject. If the Hon'ble Member wants to discuss the whole Bill, he could have done it when the Bill was taken up for consideration. But when we come to particular amendments unless the speech is confined to those amendments, it will be an endless matter, because for every amendment there will be a long speech on the nature of the whole Bill. I don't think I will be justified in allowing the Hon'ble Member to make general observations with regard to the whole Bill when we discuss particular amendments. I have been mentioning that several times this morning, because, sitting in the Chair, I don't think it is a right thing to allow Hon'ble Members to go on like this with regard to every amendment. Those general observations could have been made when the Bill was taken up for consideration or may be made at the final stage, i. e. at the third reading. I do not think that this is the proper stage to make any general attacks. The Hon'ble Member will please confine his attacks to the amendment before the House. I think the Hon'ble Member will take my observations only in the spirit in which I make them.

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Mr. T. K. Nayar (*Pazhayannur*).—I implicitly take it in that spirit.

അദ്ധ്യക്ഷനവർകളുടെ ഉപദേശമനുസരിച്ചു് എനിക്കു പറയുവാനുള്ളതു്.— മനോവേഗനേയോടുകൂടി ആണെങ്കിലും അല്പമാത്തിന്റെ റൂളിംഗനുസരിച്ചു് — മുഴുവൻ പ്രസംഗമെന്നു വിചാരിക്കുന്നില്ല. കാര്യം മാത്രം മുമ്പാക്കി പറഞ്ഞേക്കാം. ഇതിനെക്കുറിച്ചു ഞാനിത്ര കടത്തി പറയാനുള്ള കാരണമെന്തെന്നാൽ അനുദ്യോഗസ്ഥ സാമാജികന്മാർ ഇതിൽ പങ്കുകൊള്ളുന്നതെന്നാണു്. ഗവൺമെന്റിന്റെ മനഃസ്ഥിതി അന്വേഷിച്ചു് അതിനായി സമയം കളയേണ്ട എന്നാണു ഞാൻ നിങ്ങളോടു പറയുന്നതു്. ഇതിൽ പറഞ്ഞിട്ടുള്ള ഈ വകുപ്പിനെ സംബന്ധിച്ചുമാത്രം പറയുകയാണെങ്കിൽ ഗവൺമെന്റിൽനിന്നു് ഒരു കമ്മീഷണരെ മുനിസിപ്പാലിറ്റിയിലേയ്ക്കു നിയമിക്കാൻ തീർച്ചയാക്കിക്കഴിഞ്ഞു, ആ കമ്മീഷണരെ സംബന്ധിച്ചു മുനിസിപ്പാലിറ്റിക്കു യാതൊരു തരത്തിലുള്ള അധികാരവുമില്ല എന്നീ സംഗതികൾ കഴിഞ്ഞ ശനിയാഴ്ചയിൽ നടന്ന വാദപ്രതിവാദം കൊണ്ടു നമുക്കു മനസ്സിലാക്കാൻ കഴിഞ്ഞിട്ടുണ്ടു്. ഇങ്ങിനെ നിയമിക്കുന്ന ഒരാളെ ഇന്നയിന്ന നിയമങ്ങളനുസരിച്ചേ പിരിച്ചുവിടുവാൻ പാടുള്ളൂവെന്നാണു് ഈ അമെൻഡുമെൻടുകൊണ്ടു കാണുന്നതു്. തീച്ചയായും ഞാനാണു ഗവൺമെൻടു മെമ്പറന്മാരുടെ ഭാഗത്തിരിക്കുന്നതെങ്കിൽ ഈ അമെൻഡുമെൻടു് അപ്പോസു് ചെയ്യുകയില്ല. എന്തെന്നാൽ ഈ അമെൻഡുമെൻടു് ഗവൺമെൻറിനെ അനുകൂലിച്ചുള്ളതാണു്. എന്നാൽ തങ്ങൾക്കു പല സംഗതിയിലും എതിരായി പ്രസംഗിക്കുന്നവരായ മെമ്പറവർകളുടെ പ്രസംഗത്തിൽനിന്നു തന്നെ ഞങ്ങൾക്കു ഗുണമായ പല പായിൻറുകളും കിട്ടാറുണ്ടു്. ഇങ്ങിനെ ഒരു സഹായം വാസ്തവത്തിൽ അല്പമറിയാതെതന്നെ ഞങ്ങൾക്കു ചെയ്യുന്നതുണ്ടു്. ഈ അമെൻഡുമെൻറിൽ ഗവൺമെൻറിനോ ഉറാക്കെങ്കിലുമോ ദോഷകരമായി എന്തെങ്കിലും ഉണ്ടെന്നു എനിക്കു തോന്നുന്നില്ല. അതുകൊണ്ടു നിങ്ങൾക്കു ഭയമായി സ്വീകരിക്കുവാൻ ഇഷ്ടമുണ്ടെങ്കിൽ സ്വീകരിക്കുകയെന്നല്ലാതെ ഞാൻ കൂടുതലൊന്നും പറയുന്നില്ല. ഇതിനെ സംബന്ധിച്ചു പറയേണ്ടതൊക്കെ ഇതിനു മുമ്പു പറഞ്ഞുകഴിഞ്ഞിട്ടുണ്ടു്. ഇനി ഞങ്ങളുടെ വേല പുറത്താണു്, അകത്തല്ല.

Mr. A. V. Moothedan (*Chalakkudi*)—I do not oppose this motion. In my opinion, this amendment is quite harmless. It means the Government may remove the commissioner at their discretion. If the Government are satisfied that a person is unable to carry on the duties of the commissioner Government can remove him. I am surprised that Government are opposing this amendment. Suppose the Government want to remove a commissioner, who, in their opinion, is not an agreeable person. They can do it very easily, even if this amendment is accepted. Ask him to resign. Governmen

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may promise him another job and he will oblige the Government by resigning. So even if the Government want to remove a person for insufficient reason, this amendment will not stand in their way. Therefore human ingenuity can never be defeated by legislation. The amendment as it is is quite harmless.

Mr. T. S. Balarama Ayyar (*Trichur North*).—I am not one of those who believe that Government are capable of only committing mistakes; it may be their privilege more than that of anybody else to commit mistakes. But I do believe that Government also stumble into doing good actions. It is quite possible that at one time or another a commissioner whom Government may thrust upon any municipality may really prove to be a capable officer and a good officer from the stand point of the Municipality. Well, to use a very favourite expression of the Law Member, we don't want those rare instances of commissioners who are good officers from the view-point of the Municipality to be dummies. We want them to be talkies to the Government. You cannot expect this Commissioner, however capable he may be, to be a talkie if Government have got the discretionary power of sending him away without assigning any reason whatsoever. But as I said we do not want these popular officers to be dummies, we want them to be talkies. The only object with which this amendment has been proposed is to restrict Government's power to remove these officers. If he is an unpopular officer, let Government remove him. We do not care at all. It is quite possible that at times Government may give us some good officers. Their interests must be protected. To clarify my position, I must make a reference to the Law Member's speech yesterday about the amendment that I had proposed. He was afraid yesterday that if the power of removing the chief officer appointed by the Municipality is given to the Municipality or to put it more correctly, so long as the power of removal of the Chief officer appointed by the Municipality vests with the Municipality, the Government Advocate jumped into the conclusion, he will be a dummy.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Entirely wrong. I never said anything like that.

Deputy President.—The Hon'ble Member has understood it in a particular way. He may go on.

Mr. T. S. Balarama Ayyar (*Trichur North*).—Really speaking, the cat has been let out of the bag by the Government Advocate. Only, he was misusing his expression. He was

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using the expression 'Dummy' where he ought to have used the expression 'Talkie'. If my amendment had been accepted, the removal of the Chief officer will rest with the municipality but with the approval of the Government. There is absolutely no difference in the matter of removal of the executive Officer as provided in the amendment proposed by me and in the Bill as it stands. Government is bound to remove the commissioner if demanded by two thirds majority of the council and in the amendment that I proposed the provision existed that a Chief Officer could be removed only with two-thirds majority of the council. Wherein lies the difference? Here with a two thirds majority, council can remove their servant and there Government is bound to remove him with a two thirds majority. There is alsolutely no difference. It is just like the common saying വിളിച്ചുപറയാൻ പട്ടർ. In one case വിളിച്ചുപറയൽ is done by Government. The Government will say "Look here. The Municipality has said with a two thirds majority that you are to be dismissed. You are therefore dismissed." I maintain there is absolutely no difference between the two cases. With a commissioner, the Government can remove whenever they like. In the case of the Chief Officer, Government has not got that autocratic power. What will be the result? Government cannot remove the Chief Officer as they like. He need not be afraid of the Government dismissing him as they like. Then the power of removing him is taken away from the Government. He may become a talkie which the Government Member does not want. I sincerely hold that unless some restrictions are placed in the power of the Government in the matter of the removal of the Commissioner even though the appointment is made by them, you cannot expect a commissioner to act independently according to his conscience. The Law Member was asking if the power of the appointment vests with the Government, should not the power of removal also rest with them? But he forgets one fundamental difference. It may be that the appointment is made by the Government but the Commissioner is not paid by the Government. He is not looking after the affairs of the Government. In his appointment alone, Government has got the power. His work is supervised not by the Government. Government have got few chances of judging about his work. Government does not pay him. Yet Government wants to retain the power of removing him also however satisfactory his work may be in the opinion of the municipality. If such power is retained by the Government you are not going to give to the municipality a commissioner who will be an independent and capable officer, who will

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look more to the interests of the municipality than to the interests of the Government in matters where the interests of the Government and the municipality clash.

* മിസ്റ്റർ കെ. എം. കുഞ്ഞിമൊയ്തീൻ (*Kattoor*).— സർ, എത്ര തന്നെ നിരുപദ്രവമാണെങ്കിലും, ഏതെല്ലാം വിധത്തിലുള്ള ന്യായങ്ങളുണ്ടെങ്കിലും, അനുക്രലിക്കുവാൻ അടിസ്ഥാനമുണ്ടെങ്കിലും അനുദ്യോഗസ്ഥപക്ഷത്തുനിന്നു കൊണ്ടുവരുന്ന ഭേദഗതിയെ എതിർക്കുകതന്നെ വേണമെന്നുള്ള നിർബന്ധത്തോടുകൂടി ഗവർമ്മെൻറു പ്രവൃത്തിക്കുന്നതിന്റെ ഒരു പ്രതിഫ്ലായയായിട്ടാണ് ഈ ഭേദഗതിയെ എതിർക്കുന്നതെന്നാണു ഞാൻ വിചാരിക്കുന്നതു്. ഇപ്പോൾ ഇവിടത്തെ ഭരണരീതിയിൽ പ്രകടമായിട്ടുള്ള ലക്ഷണങ്ങൾകൊണ്ടു് സ്വയംഭരണത്തിന്റെ ഒരു അന്തരീക്ഷം ഇവിടെ ഉടനെ പ്രതിഷ്ഠാപിതമാകുമെന്നുള്ള നിലയിലാണ് ഇരിക്കുന്നതു്. ഇങ്ങിനെ കൊച്ചിയിലെ പൊതുജനങ്ങളെ സ്വയംഭരണത്തിനു പ്രാപ്തരാക്കുവാൻ കൊച്ചി ഗവർമ്മെൻറു് അത്യുത്സാഹം ചെയ്തുകൊണ്ടിരിക്കുന്ന ഒരു അവസരത്തിൽ സ്വയംഭരണസ്ഥാപനത്തിന്റെ അടിസ്ഥാനമായ മുനിസിപ്പൽ ഭരണത്തിൽ കൂടുതൽ കൈവക്കുവാനും അതിനു കൊടുത്തിട്ടുള്ള പരിമിതമായ അധികാരത്തെപ്പോലും നിയന്ത്രിക്കുവാനും ഗവർമെൻറു പുറപ്പെട്ടതു് ഒരു വിധത്തിലും അഭിലഷണീയമല്ല. സ്വയംഭരണസൌധത്തിന്റെ മനോഹരരൂപം കെട്ടിപടുക്കുന്നതിനുവേണ്ടി പലവിധത്തിലും പലനിരക്കിലും ഒരു സിക്രട്ടറിയേറ്റു് സ്ഥാപിക്കുന്നുണ്ടെന്നു ദിവാൻജിയവർകൾ ഇവിടെ ഘോഷിക്കുകയുണ്ടായി. അങ്ങിനെ പലേ വ്യാമോഹങ്ങളും പ്രതീക്ഷകളും പ്രത്യാശകളും നൽകിക്കൊണ്ടു് കൊച്ചിയിലെ അന്തരീക്ഷത്തിൽ ഒരു വലിയ ആശയെ കൊടുത്ത ദിവാൻജിയവർകളുടെ ഭരണത്തിൽ പൊതുജനാഭിപ്രായത്തിനു വിട്ടുകൊടുത്തിരിക്കുന്ന നിസ്സാരമായ അധികാരത്തിന്മേൽ കൈവക്കുന്ന ഒരു നിയമം ഇവിടെ കൊണ്ടുവരുന്നതു് ഒരിക്കലും ഗവർമ്മെൻറിനു ഭൂഷണമല്ലെന്നു ഞാൻ പറയുന്നു. (ഹീയർ, ഹീയർ) ഈ ഭേദഗതി ഗവർമ്മെൻറിനുതന്നെയും അധികാരങ്ങൾ വച്ചുകൊടുക്കുന്നുണ്ടു്. പക്ഷെ ഗവർമെൻറു പ്രവൃത്തിക്കേണ്ട രീതിയുടെ ചില സൂചനകൾ മാത്രമാണു് ഇതിൽ ഉൾപ്പെട്ടിട്ടുള്ളതു്. ഗവർമ്മെൻറിന്റെ പരമാധികാരത്തെ ഈ ഭേദഗതി നിഷേധിക്കുന്നില്ല. (ഹീയർ ഹീയർ) പക്ഷെ നിങ്ങൾ ഒരു കൈകൊണ്ടു് ഞങ്ങൾക്കു തന്നിട്ടുള്ള അധികാരത്തെ മറേറ കൈകൊണ്ടു് വലിച്ചെടുക്കരുതെന്നുള്ള പ്രാർത്ഥനയും അപേക്ഷയുമാണു് ഞങ്ങൾക്കുള്ളതു്. വാസ്തവത്തിൽ ഗവർമ്മെൻറിന്റെ പ്രഖ്യാപനത്തെ സംബന്ധിച്ചു് പൊതുജനങ്ങളുടെയിടയിൽ തെറ്റിദ്ധാരണകളും പ്രതിഷേധങ്ങളും ഉണ്ടാകത്തക്കവിധത്തിൽ പുതിയ നിയമങ്ങളും മറും സൃഷ്ടിച്ചു പൊതുജനങ്ങളുടെ അധികാരത്തിന്മേൽ കൈവ

* Speech not corrected by the Hon'ble Member.

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ക്കരുതെന്ന് അനുഭ്യോഗസ്ഥ പ്രതിനിധ്യം വഹിച്ചുകൊണ്ട് ഞാൻ ഗവർമ്മെൻറിനോടപേക്ഷിക്കുന്നു.

ഈ ഭേദഗതി സ്വീകരിക്കുന്നതുകൊണ്ട് ഗവർമ്മെൻറിൻെറ അധികാരത്തിനു കുറവില്ല. നേരെമറിച്ച് പൊതുജനങ്ങളുടെ അഭിപ്രായങ്ങളെ ഗവർമ്മെൻറ് സ്വീകരിച്ചുവെന്നും, പൊതുജനങ്ങൾക്ക് അതിനുള്ള അവസരം ഗവർമ്മെൻറ് നൽകിയെന്നുമുള്ള നല്ലപേരിനു ഗവർമ്മെൻറ് പാത്രമാകും. അതുകൊണ്ട് ഗവർമ്മെൻറ് പൊതുജനാഭിപ്രായത്തെ അനുകൂലിച്ചുകൊണ്ട്, പൊതുജനാഭിപ്രായത്തെ സമാദരിച്ചുകൊണ്ട് ഈ ഭേദഗതിയെ സ്വീകരിക്കണമെന്നു ഞാൻ അപേക്ഷിച്ചുകൊള്ളുന്നു.

Mr. V. K. Krishnankutty *(Anthikad)*.—Mr. President, Sir.

Deputy President.—May I know whether any change of language in the amendment is possible?

Mr. V. K. Krishnankutty *(Anthikad)*.—I move the amendment as it stands and I am not for making any further amendment. Introducing a different word or phraseology is in my opinion an amendment to this amendment which will take away the substance of the amendment.

Deputy President.—I want to know only with reference to what the Hon'ble member for Adoor said that the section is not what it is in Bombay. Here, if the Government can pass an order that a certain commissioner is removed, that commissioner can question the action of the Government in a court of law when none of the reasons exist for his removal.

Mr. V. K. Krishnankutty *(Anthikad)*.—I am glad that my amendment, which gives security to the tenure of office to a Government servant who might be appointed as commissioner of a municipality, has been very hotly and reasonably discussed in this House. Sir, my harmless amendment has been characterised and descried as useless and mischievous by the Hon'ble member for Vyttila and I do not know what he meant by innocuous. The Government Advocate also has been pleased to decry my amendment as useless, unnecessary and in certain cases insipid. It is open to me to say that his opposition was unwanted, unnecessary and unreasonable and unwarranted to conclude. But I do not wish to make such statements. I only want to remark that the Government Advocate has not properly studied the subject from all and various standpoints. He has not gone through the various enactments concerning the local

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bodies of which the municipality is only one. He has not gone through the Bombay Municipal Act to find out how my amendment was moved, what was my object or my intention in moving the amendment. He has not also gone into the case-law on the subject to understand whether there has been case under that section and what the implications of the phraseology of the section is.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—You have examined my knowledge, I suppose?

Dr. A. R. Menon *(Pallippuram).*—Let him examine. Do you feel nervous?

Mr. V. K. Krishnankutty *(Anthikad).*—I do not wish to conduct an examination of the Government Advocate on a question of law; but I am entitled to give my own opinion or impression of his position with regard to my amendment. It is an unsubstantial position, without any facts or figures, or without carefully thinking over that matter. This provision was included as early as 1871 in the Madras Town Improvements Act of 1871. This provision, as it stands, has been included there. Sir, what happened was that the Government most unreasonably and in an unwarranted manner most pitilessly dismissed a municipal commissioner. The matter was taken to a court of law and it was decided by the tribunal that the Governor acted ultra vires without going into an enquiry, without deciding whether there was neglect of duty on the part of the commissioner who was mercilessly dismissed. In that case Government was asked to pay adequate compensation for unreasonable dismissal of the municipal commissioner. It is only for giving the municipal commissioner who might happen to be a popular municipal commissioner, an opportunity of proving his own conduct in a court of law and to claim adequate compensation for unreasonable and unwarranted dismissal by a Government in caprice. Sir, it is only the elementary right of a Government officer to vindicate his character in a court of law and to show that he was unreasonably dismissed and to claim compensation for that. This provision, as I said, has been incorporated in the City of Bombay Municipal Act. In that City of Bombay Municipal Act, in section 54, clause (2) there are the additional words "in the opinion of the Government". That is a meaningless addition. It takes away all the spirit of the other phraseology. The retention of this clause in the amendment "in the opinion of the Government" is intended as Democles sword by the Government. The phraseology of my

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amendment is one which enjoins upon the Government to make a preliminary enquiry into the matter and to come to a decision, whether the officer concerned has been guilty of neglect and default in carrying on his duty. This is incorporated in the Local Boards Act of the Madras Government. There, the provision is made for the dismissal of a District Board President under certain conditions. Those are the same conditions as those prescribed by my amendment. There, the case which I have cited has been taken as an example. There also the words "in the opinion of the Government" has been added and the commentators say that the existence of the words does not alter the situation, because the person who is to decide whether the Government Officer who was dismissed has committed default in his duties is not the Government who dismissed, but a court of law, the standard being the standard of a reasonable man, of ordinary prudence. Sir, it is only an elementary principle of justice that he who metes out justice should also be just. Why should Government fight shy of the situation and not be bold enough to meet the situation? Their action should be above-board and even if it is questioned in a court of law it should boldly stand the test especially when the court of law is the court of Cochin. It is only to safeguard the interests of a Government officer who happens to be a servant of the municipality also. Sir, the Government Advocate has been arguing from a false or wrong promise, viz. that the Government officer who has been deputed as a municipal commissioner is on a par with all other Government officials. It is not so. From the moment that he is deputed as a municipal commissioner he is under the orders of the municipality also and there is really a confusion of thought as regards the position of the municipal commissioners concerned. Government think that he is a Government officer but on their own showing they say that he is not a Government servant, but he is completely a Municipal servant. If that position is conceded that he is a municipal servant, it is not open to you to recall him at any moment or to dismiss him as you please. We have got our voice in the matter and if he misbehaves, we can, by a majority of two-thirds strength of the council, recommend the removal of the person and the Government is bound to remove the commissioner who has made the default in carrying out his duties. Then the Government Advocate thinks that everything that is connected with Government is reasonable. Government says that there will be so many other conditions under which the dismissal of a municipal commissioner will be expedient. It may be expedient, but does not the Government think that the municipality

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is also reasonable and when the municipality thinks that the dismissal of such a servant is expedient in the administration of the municipal matters, they will, in a majority, recommend the removal forthwith? Why don't the Government extend the same charity to the municipal council, give them an opportunity to exercise the latter part of the section to remove the commissioner? As it at present stands, the section gives absolutely uncontrolled power in the hands of the Government to dismiss a municipal commissioner who is a paid servant of the Municipality, who attends to the affairs of the Municipality, and who perhaps or perchance may serve the Municipality, as he eats the salt of the Municipality. Then occasions may arise when the Municipality and the Government may not quite agree in certain matters and it is only natural that the Government may deem fit to withdraw or dismiss the Municipal commissioner who may reasonably side with the Municipality. It is to avoid such a contingency that the amendment is proposed. It is to safeguard their own servants that the amendment is proposed. I do not think any further defence of the amendment is necessary. Then I may dispel one doubt which the Hon'ble Member for Ernakulam North raised. He raised a doubt which may appear reasonable to a layman. That is, now strict conditions are imposed on the Municipality before recommending the dismissal of the Municipal commissioner, it has become almost impossible when we apply a lot of practical circumstances to recommend the removal of the municipal commissioner. Now that door is almost closed according to me. Then he thinks of the other door, if the Municipal commissioner is an evil, he must be removed. Then there is the Government who has got authority to remove him. Restrictions are placed there also. Then the Hon'ble member for Ernakulam North adds that he will squander municipal funds until his services are dispensed with at the age of 55. But here there is another provision. He is appointed only for 3 years. But the difficulty can be overcome when he has served his 3 years' period and if his period of service has not been found satisfactory Government will step in and the municipality will not thrust the other aspect of it that we want to restrain the hands of the Government from dismissing him should there be sufficient grounds for the dismissal. The omission of the words "in the opinion of Government" only makes it necessary to conduct a preliminary enquiry into the conduct of the official and to record the reasons, give it out as a notification in the Government Gazette and that the enquiry must stand the judicial scrutiny of any judge in the State. They should be bold enough to face

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that situation. That is the only object aimed at by this amendment. I move that the amendment may be put to vote.

* **Mr. Thomas Manjuran** *(Government Advocate and Law Officer)*.—I must regretfully say that personalities are indulged in by some of the Hon'ble members. While I am prepared fully to concede the great learning and the elaborate investigation of the case law and the statutory law possessed by the Hon'ble member for Anthikad, while I am confident that nobody else in the world could ever hope to attain anything like the eminence of the learned member, I must confess that if all his erudition should lead to such utter confusion, I would rather shun that erudition, rather than have anything to do with it.

Dr. A. R. Menon *(Pallippuram)*.—He is indulging in personalities. It is a vice shared by both of us.

Mr. Thomas Manjuran *(Government Adocate and Law Officer)*.—It is easy to pretend the erudition which one does not possess and I do not want to make any such pretension. If it is the standard of acumen that is said to have been added to the mind of the learned member for Anthikad, I should think it is a regrettable acumen to keep such knowledge of cases law in one single head. What exactly are the facts of the case? A particular question was put by the Chair "Do you intend by this amendment to introduce an improvement over the Bombay provision or do you propose to introduce the Bombay provision". Without pretending to answer that question point blank he says 'My amendment is there'. Who said 'no'? He said my amendment is there; my amendment, whatever it be, I want. Whether it is Bombay amendment or not there is no question. Let us consider both the positions. I can quite understand my learned friend saying that this is the amendment that I move, I consider it entirely for the safety of the Municipal administration. That is a perfectly logical and ingenious position. The opposite of all that will be the position to say that the effect will be the same even after the elimination of the words "If in the opinion of the Governor in Council, so and so appears to be incompetent". I say, to say the least of it, it is incorrect. The Hon'ble Member for Pallippuram seems to think that I am possessed of all the invectives that he has in store.

Dr. A. R. Menon *(Pallippuram)*.—You are a very good second (Laughter).

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* Speech not corrected by the Hon'ble Member.

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Mr. V. K. Krishnankutty *(Anthikad).*—I would refer the Hon'ble Member to the Madras Local Boards Act.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I shall consider all these references if the learned Member gives me a chance of making my statement. The question is whether there is any difference between the language of the amendment as it is now put and the Bombay amendment. The real difference between the Bombay amendment and this is this. The Bombay amendment says that the Governor in council can always remove if in his opinion etc., and the Hon'ble Member without understanding the position says even the absence of the words is nothing at all. That is incorrect. Some of the Hon'ble Members would have it that a decision of the Government should be challengeable in a court of law. If, as a matter of fact, the decision of the Governor in Council or the Government here as the case may be should prevail I cannot understand how the benefits exercised by such an opinion can ever be challenged in a court of Law. If the Hon'ble Member for Anthikad had ever investigated the case law he would have seen from the Cochin Law Reports and sundry cases of the Privy Council and Madras that when any party, whether the Government or the local authority, is invested with power to do certain things, to judge certain people, to make certain orders with regard to appointments or otherwise relating to every people, when that is done honestly and truly, not capriciously, no court of law in the world can take action. Please turn to the Cochin Law Reports, 24 or 25 Cochin, and I can tell you the case. It is a decision passed recently in connection with the Trichur Municipality latrine case business. The Honble Member for Pallippuram knows the business. He was a party to the case and he knows the case.

Mr. P. Govinda Menon *(Trichur North.)*—With due respect, it is entirely a different matter.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—That is a latrine case. In dealing with that case, there was question whether the Municipal Chairman had passed a proper order to remove that latrine or whether it could be challenged before a court of law. If the Hon'ble Member for Adoor wants to get at the facts, he may refer to 25 Cochin. He will find the whole question of the authority of the Government and the local Municipality and such bodies discussed. Suppose Government in this case has power as conferred in Bombay. If it finds the officer to be inefficient,

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and unsatisfactory and he should not be continued and passes an order of dismissal saying since A is found to be inefficient and Government consider that he should not continue there, no court in the world can take exception to it.

Dr. A. R. Menon (*Pallippuram*).—In the first place I was not a Government servant. I was the Municipal Chairman of Trichur. Secondly they attributed malice to me. The court held that there was no malice. The court also held that the Chairman has done everything possible to induce the party to do this. He failed to do it. The court also held that if at all the Chairman is guilty, he is guilty of having shown too much indulgence to the parties.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—The Hon'ble Member's position is correct to the extent it goes. But what was decided there was in cases where either local authority or other bodies constituted likewise have functioned not capriciously but in a constitutional manner no court of law will interfere. Assuming the amendment stood in the form in which the Bombay law stands, it will simply mean that wherever the Government recalled an officer after the issuing of proceedings stating the grounds for which the man has been recalled no court of law can question it just as in the case of any other Government servant. Suppose Government takes objection to the conduct of a particular Government officer and dismisses that officer after complying with the provisions of the C. S. R. No court of law can interfere with that order.

Mr. V. K. Krishnankutty (*Anthikad*).—The Municipal Commissioner is not a Government servant.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—The Hon'ble Member for Anthikad does not follow my argument. Supposing the Government is given power under this law to dismiss or withdraw an executive officer if they find him inefficient, so and so, if they pass orders constitutionally and after deliberating over all the relevant points, no court of the land can interfere. It is not a colourless or innocent amendment as is stated to be. What is meant is, it should give an executive officer, when he is withdrawn, a right to challenge the action of the Government, however constitutionally and properly Government might have acted.

Dr. A. R. Menon (*Pallippuram*).—What is the objection to that?

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Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—I am saying it is objectionable. This right can be exercised by no Government servant. Government has got certain powers of appointment, dismissal; suspension, etc. If the Government in dismissing him acted capricously or hemaliciously he has got an action. If they behave not capricously but constitutionally and without malice, it is your ill-luck to have been dismissed. He has no remedy. We want to place this executive authority on a different basis altogether. We want Government do not touch him and every action of Government, however satisfactory it may be, should be capable of being challenged in a court of law. That is what the Hon'ble Member means. Otherwise what is the objection to the Bombay amendment. You have argued the matter. Let us exclude all irrelevancy, personalities and all that. If as a matter of fact, he does not want to put the executive officer on a different footing what is the objection of accepting the Bombay language which grants the Governor-in-Council a discretion.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri)*.—Is he a Government servant?

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—Yes. He is a servant appointed by the Government.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri)*.—Is he a Government servant?

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—I am surprised at the learned Lawyer members putting such questions. With regard to the Hon'ble Member for Adoor he had undertaken an extensive and international reading. In regard to the Member for Anthikad I am surprised to find that with all his reading his position is not correct.

Mr. E. Ikkanda Warriar *(Urakam)*.—Can we not improve on the Bombay Act?

Mr. Thomas Manjuran *(Goverment Advocate and Law Officer)*.—I will make an honest attempt.

Hon'ble Members, when we are arguing a thing, let us argue it dispassionately. I know that Hon'ble Members on this side as well as on that side, want to thrash out a case on its merits. Here are two positions—either you want to appoint a Government officer or a quasi-Government officer, or you want to put him on a higher pedestal. If you want to put him

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on a higher pedestal, say so. You may make him a demagogue. But don't say that you want only to give him ordinary powers of the other Government servants and endeavour to retain this bill. That attitude, I must say, to use a very modest language, is incorrect.

Dr. A. R. Menon *(Pallippuram).*—Do you realise that his position is between the devil and the deep sea? Should he not have additional protection?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I am afraid the Hon'ble Member does not criticise the Municipality as a devil. Hon'ble Members, let us have a clear idea in this matter. Here is an endeavour to elevate this officer whether he is appointed for 3 years, whether he is a Government servant or not beyond the status with regard to the rights enjoyed by even the highest Government official—a procedure for which there is, so far as I know, no precedent, at any rate in India, a procedure which is not justified by the very law on which it is said to have been based, but from which it differs radically. There was some misunderstanding in the mind of the Hon'ble Member for Chalakkudy whom I am particularly addressing in this connection. He said and with perfect justification that 'if this law does not compel anybody and if Hon'ble Members want it, let it be done, I would have no objection'. But from the outspoken statement of the Hon'ble Member for Anthikad it is not intended to be so.

Mr. P. Govinda Menon *(Adur).*—Intention does not count, Sir.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—It is not intended to be so and left alone it may not be so. For one thing that amendment, in spite of his elaborate argument on the subject, I must say, has been ill-drafted. As it stands, is it stated anywhere or can Hon'ble Members make head or tail out of it? "The Government may remove the commissioner from office if he becomes incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient and shall remove him. . . . . ." Who in the world is to decide that primarily?

Mr. E. Ikkanda Warriar *(Urakam).*—Government.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—So, they must decide and then you start the trouble. Will the Hon'ble Member cite, in spite of his elaborate learning,

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one instance in the whole of the constitutional law of India to support his position?

Dr. A. R. Menon *(Pallippuram)*.—Will you cite one instance where 20 per cent of these seats are reserved for nomination and two-third majority required by you? Shame!

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—I cited one instance where 33 per cent is reserved.

Dr. A. R. Menon *(Pallippuram)*.—And 75 per cent for the removal of the officer. I want to know any single instance of a municipality where 20 per cent of the seats are reserved and the Council can remove this officer only by a two-third majority of the vote. Show me one instance.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—Can you explain to me how many wits are there in the moon? I am on the point before me. The amendment is not innocent as it is stated to be. It is innocuous and it is intended to be a source of trouble. In these circumstances and taking all these facts into consideration I request Hon'ble Members to exercise their vote and vote down this amendment which is nothing but mischievous and if it is anything else, it is innocuous.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri)*.—You cited 24 Cochin. Please read it out.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—I am not concerned. I am not here to satisfy the Hon'ble Member for Wadakkancheri. I have satisfied the Hon'ble Member for Adur because he is lawyer.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri)*.—I take exception to that statement. I am also a lawyer.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—I am sorry, Mr. Ezhuthassan is a lawyer.

Deputy President.—The Hon'ble Member means that he is wrong in not saying that Mr. Ezhuthassan is a lawyer.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri)*.—That is not what he said. He said he will not satisfy me and that he will satisfy the Hon'ble Member for Adur because he is a lawyer, thereby meaning that he is not going to satisfy the Hon'ble Member for Wadakkancheri, because he is not a lawyer.

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I take exception to that—the most unwarranted, insinuating statement.

Dr. A. R. Menon (*Pallippuram*).—That is not the mentality of one party. Don't be under that impression. We can give you retort. Remember that and do not get annoyed and furious. If you do not know how to behave properly we will teach you how to behave properly. This is going to be intolerable bringing all sorts of rot here and you lose your temper. Shameful!

Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).—I want to place some facts before you, Sir. There is a very small matter. It does not mean anything. I am fully satisfied. A citation has been given from 25 Cochin. It is against the position that he has taken according to my poor reading of it. I request that it may be read to the Council so that the House may not be carried away by it.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—25 Cochin 476 "When a local authority is given the power to decide a certain matter for itself, it is not for the court to substitute its own judgment for the judgment of the statutory authority. If there are materials before the local authority to come to a conclusion upon the matter, it is not for the court to enquire into the sufficiency or otherwise of the materials. It is for the local authority to decide. When such a decision is arrived at, it is not for the court to interfere though the court would have come to a different conclusion"

Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).—That citation is against him.

Deputy President.—The passage has been cited by him. There the matter ends.

Mr. A. V. Moothedan (*Chalakkudi*).—It is not a court of law.

The amendment was put and agreed to.

Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).—Poll, Sir.

POLL

Ayes	Noes
1. Mr. K. Ashtamoorthi Namburipad	1. Mr. P. J. Alexander
2. ,, T. S. Balarama Ayyar	2. ,, M. V. Cherian
3. ,, A. Eachara Menon	3. ,, A. L. Devassy
4. ,, P. Govinda Menon	4. ,, P. J. George
5. ,, K. M. Ibrahim	5. ,, K. P. Kannan Nayar

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Ayes	Noes
6. Mr. E. Ikkanda Warriar	6. Mr. George Parakkal
7. ,, T. C. Iyyukutty	7. ,, V. S. Krishnan Vaidyar
8. ,, C. R. Iyyunni	8. K. Krishna Warriar
9. ,, T. K. Nayar	9. ,, A. Narayana Menon
10. ,, V. K. Krishnankutty	10. Rao Sahib I. N. Menon
11. ,, P. Kumaran Ezhuthassan	11. Mr. K. Narayana Menon
12. ,, K. M. Kunhi Moideen	12. ,, T. Narayana Menon
13. ,, V. K. Kutty	13. Dr. D. Raghavendra Rao
14. ,, K. S. Manickam	14. Mr. Thomas Manjuran
15. Dr. A. R. Menon	15. Rama Varmha Tampuran
16. Mr. T. A. Ramachandra Ayyar	16. Mr. M. A. Sankunny
17. ,, K. S. Panickar	17. Miss. G. M. D' Souza.
18. ,, P. Sankunny Menon	18. Mr. P. V. Subramania Ayyar
19. ,, A. V. Moothedan	19. ,, P. C. Varkey

Deputy President.—19 for and 19 against. I give my casting vote in favour of the amendment. But I take a different view of the amendment. I want to make it perfectly understood.

Amendment was therefore carried.

Mr. A. Eachara Menon *(Chittur Rural).*—Sir, my amendment reads thus:— "In section 13(5) add 'and shall have nothing confidential apart from the Council matters in Municipal' ". This amendment was suggested to me when the Municipal Bill was with the Committee on finding that in a Municipal Council,—if I remember right, Bellary—when certain papers were called for the commissioner said that the papers should not be placed on the table because they were confidential, and the Chairman is invested with powers and the executive shall comply with every request of his unless in the opinion of the commissioner immediate compliance would be prejudicial to the interests of the Council.

When the Council passes a Resolution the Executive authority who may be nobody there comes to the conclusion that it is against the interests of the Council. That is a state of affairs which nobody would like to have. Section 34(2) says "if, in the opinion of the executive authority, immediate action is necessary on any of the grounds referred to in clause (c) of sub-section (1), the executive authority may suspend the resolution, order, licence, permission or act as the case may be and report to Government who may thereupon either rescind the order of the executive authority or after giving the authority or

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person concerned passing such resolution or order, issuing such licence or permission or doing such act, a reasonable opportunity of explanation, direct that it continues in force with or without modification permanently or for such period as they think fit."

He will report to the Government in the first case only if the Council request him. In other cases it is on his own initiative. A Commissioner should not be given such powers. Therefore my amendment.

Mr. T. S. Balarama Ayyar (*Trichur North*).—I second it.

Deputy President.—The Hon'ble Member wants this amendment to be read with other sections so as to make his amendment clear. I do not think that this is the proper place to make this amendment.

Mr. A. V. Moothedan (*Chalakkudi*).—This is not the proper place for this amendment. This is quite out of place.

Mr. E. Ikkanda Warriar (*Urakam*).—Sir, I may be permitted to move an amendment to this amendment. It is to this effect. In section 13(5) add "and shall not with-hold any information on matters Municipal from any member of the Municipality on the ground that it is confidential".

Deputy President.— It is only a change in the wording. My difficulty is how this matter can come under clause (5) of section 13. Clause (5) is to this effect. "The commissioner shall be a whole-time officer of the municipality and shall not undertake any work unconnected with his office without the sanction of the Municipal Council and the Government." How can that amendment find a place here?

Mr. E. Ikkanda Warriar (*Urakam*).—We are describing the powers and the mutual relations of the Commissioner.

Dr. A. R. Menon (*Pallippuram*).—Sir, I may be permitted to move another amendment to the amendment. It may be changed thus:—

"In section 13(5) add 'and shall have nothing confidential apart from the Council in matters Municipal unless the Chairman certifies otherwise'."

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I think the proper place for the amendment is section 16.

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Mr. E. Ikkanda Warriar *(Urakam).*—There it is the Chairman's right. I am safeguarding the right of the Municipal Council.

Dr. A. R. Menon *(Pallippuram).*—He can only do so provided the Chairman also thinks that it is confidential.

Mr. K. P. Kannan Nayar *(Secretary to Government).*—How is it that this amendment which has absolutely no relevancy to sub-section (5) can find a place there? It may be added as a separate section.

Mr. A. V. Moothedan *(Chalakkudi).*—The amendment should be within the scope of that section.

Deputy President.—Does the Hon'ble Member who moved this amendment agree to the change in the wording suggested by Mr. Ikkanda Warriar? I suggest that now this matter is not going to be over today, this motion need not be taken now. It may be postponed. I think that this amendment may be moved in some other section. I leave it to the Hon'ble Members. I think this will more appropriately come under section 22(3) which is to this effect:— "Every Councillor shall have access during office hours to the records of the Council after giving due notice to the executive authority provided that the executive authority may, in any particular case, for reasons given in writing, forbid such access."

Mr. E. Ikkanda Warriar *(Urakam).*—We shall consider the motion on the merits.

Dr. A. R. Menon *(Pallippuram).*—I move to add "unless the Chairman certifies otherwise" at the end of the amendment suggested by the Hon'ble Member for Chittur, Mr. Eachara Menon.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—May I know what the Hon'ble Member means by this? There is section 22(3) which says that "every Councillor shall have access during office hours to the records of the Council after giving due notice to the executive authority provided that the executive authority may, in any particular case, for reasons given in writing, forbid such access". Is it that idea that has to be eliminated or anything else? Please explain what is meant.

* **Dr. A. R. Menon** *(Pallippuram).*—I personally think that that properly comes under that section. I want to retain that

* Speech not corrected by the Hon'ble Member.

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clause here. The moment this amendment is passed no paper can be marked confidential. I want to restrict this and that is why I added "unless the Chairman certified otherwise". If this is done it is only with the consent of the Chairman that a paper can be marked confidential. The object of this amendment is that the executive officer should not be empowered on his own initiative and at his own will and pleasure to mark any paper as confidential. It may be strange to the House that any executive officer should go to the length of saying that a paper is confidential. But instances and cases have taken place in British Municipalities where records have been refused to the inspection of the Chairman by the Commissioner on the ground that they are confidential. We want to avoid such a contingency. We want to avoid the executive officer sitting upon the Chairman. As a matter of fact he is doing that now. We do not want him to sit there like the old man in the Arabian sea with his feet in the waters without giving even breathing space. The Chairman is simply to sign the agenda paper for the meeting and if permitted to garland any distinguished visitor. He has got no other power. Though the other man has got all the power we do not want him to say that records are confidential. Therefore we want to make it impossible for the Comissioner to declare at his own will and pleasure that a certain paper is confidential and therefore cannot be divulged. I fully realise that there are certain confidential papers. Occasions may arise and a confidential paper must be treated as confidential. So I move the amendment that if the Chairman certifies along with the Commissioner that a paper is confidential, it will be treated as confidential. So the words 'unless the Chairman decides otherwise' have to be added. Some of the papers may be confidential, and if the Chairman certifies that they are so no one else has a right to demand it. Therefore we are safeguarding bothways, against the arbitrary way of refusing papers and we have safeguarded the real cases of confidential papers.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Government do not oppose the amendment. Such a reservation is necessary. It may not be possible to expose everything to the public but I would rather have this amendment put in the proper place.

Mr. V. K. Krishnankutty (*Anthikad*).—I wish to make a few observations on this amendment. The first objection is that it is not a happy one nor is it placed in the proper place. It cannot be said that it is out of place in section 13. On the

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other hand we can more or less judge that it is perfectly in its place in section 13. What does section 13 say? It deals with the appointment of Commissioners, what are his powers and duties, how he is to be dismissed and all sorts of things. It is a very comprehensive section and I do not think that this is entirely out of place. There may be other sections to which this amendment may be attached, but that is no reason to say that it cannot come under section 13. The Hon'ble member for Chalakkudy doubts the appropriateness of this. He has not himself moved any amendment in the proper place. We have to move it and see to the usefulness of the amendment. Better to have it here than not having it anywhere. Where the powers and duties of the commissioner are stated, this will not be out of place. This Municipal Commissioner is what may be termed an imperium in imperio. He is an agent of the Government stationed in the municipality to keep the papers confidential between the Commissioner and the Government. Another section says that all correspondence between the Council and the Government should pass through the Chairman. With regard to that I may say that the interpretation is not correct. According to me there are three authorities, viz., the Council, the Chairman and the executive officer. Nowhere is it stated that the correspondence from the Government to the executive authority or from the executive authority to the Government should pass through the Chairman. What is stated is that all correspondence between the Council and the Government should be carried on through the Chairman.

Mr. T. S. Balarama Ayyar *(Trichur North)*.—Has the executive authority a right to carry on correspondence with the Government direct?

Deputy President.—These matters are dealt with in other sections. The result of this amendment being carried will be that many of the other sections will have to be dropped.

Mr. T. S. Balarama Ayyar *(Trichur North)*.—It is stated that all correspondence between the Council and the Government shall go through the Chairman. But does it prevent the executive authority to write to the Government direct?

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—The next sentence makes it clear. No other method of communication is contemplated.

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Deputy President.—After the other sections have been considered this amendment can be moved. Otherwise this will lead us no where.

Mr. V. K. Krishnankutty *(Anthikad).*—At any rate the position is not entirely free from difficulties. The Chairman who is considered to be the supreme authority in the Council cannot see papers which are supposed to be confidential. It is patent from the discussion and the amendment that there will be certain things which will be classified as confidential. Now it is very difficult to see the Commissioner when he is called upon to place a paper on the table saying that it is confidential. A servant says to the master that the matters conducted under the authority of the master are confidential. That is the position which the Municipal Council cannot brook nor any of the legislators here can brook. That position will bring us to a dead lock. That will take away the spirit of self-government and the civic patriotism will decay gradually. With regard to the amendment there is a provision made in the Bombay Municipalities Act. I beg the Law Member's leave to make a reference to it. There we have got a method by which we can run over the Municipal Commissioner and get things from him. What they do is when the Municipal Commissioner says that a certain document which has been forwarded to him by the Government is confidential, the Commissioner is asked to make a declaration in writing that the document is confidential. Then if the Council wants to see the file they insist upon it and time is given to the Commissioner to place the paper on the table at the second ordinary meeting of the Council. He has to do it or if he does not do it a Committeee of the Mayor and another member with the Chairman of the particular Committee about which the paper is confidential form a confidential committee and they go into the question with the understanding that when they go into the question they will also keep it secret. Then if to them the matter is not confidential they will place the matter before the Council but if they decide that it is confidential the Council has no further remedy. Under the present Bill we have no power to give power to another committee to get over the confidential mania. According to this Act we have to make an appeal to the Diwan and the decision of the Diwan is final.. I do not know what the Urakam member means when he says that there are many other things which are confidential.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—May I know whether the Hon'ble Member for Anthi-

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kkad supports the original amendment or the amendment of the Hon'ble Member for Pallippuram?

Mr. V. K. Krishnankutty (*Anthikad*).—I have no objection to give the Chairman the power, to make the Chairman to be the authority to keep papers confidential. Government need not feel abashed when we ask them to give the power to the Chairman. This amendment is intended to keep away any possibility of a deadlock which will come into effect when a Commissioner poses to lord over the Chairman or the Council. I whole heartedly support the amendment and the amendment to the amendment.

Mr. E. Ikkanda Warriar (*Urakam*).—I wish to point out something. But it may take some time.

Deputy President.—This amendment is not in its proper place. Its place is under section 22(3). But I don't give a ruling.

The consideration was not over when the House rose for the day at 5 p. m.

B. V. KRISHNANKUTTY MENON,

Secretary to the Council.

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